

EXHIBIT 14

KITCHEN WINNERS NY INC., ET AL. vs ROCK FINTEK, LLC., ET AL.
Joel Stern on 10/16/2023

1	UNITED STATES DISTRICT COURT		
2	FOR THE SOUTHERN DISTRICT OF NEW YORK		
3			
4	KITCHEN WINNERS NY INC,	*	
5		*	CIVIL ACTION NO.
6	Plaintiff,	*	22-cv-05276-PAE
7		*	
8	vs.	*	Deposition of:
9		*	
10	ROCK FINTEK, L.L.C.	*	JOEL STERN
11		*	VOLUME II
12	Defendant.	*	
13			OCTOBER 16, 2023
14	-----		
15	ROCK FINTEK, L.L.C.	*	
16		*	
17		*	
18	Counterclaim and	*	
19	Third-Party	*	
20	Plaintiff,	*	
21	vs.	*	
22		*	
23	KITCHEN WINNERS NY INC,	*	
24		*	
25	Counterclaim	*	
26	Defendant,	*	
27		*	
28	and	*	
29		*	
30	ADORAMA, INC., HERSHEY	*	
31	WEINER, JOSEPH	*	
32	MENDLOWITZ, INS CAPITAL	*	
33	HOLDINGS, L.L.C., and	*	
34	JOEL STERN,	*	
35		*	
36		*	
37		*	
38	Third-Party	*	
39	Defendant.	*	
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T R A N S C R I P T of the stenographic notes
of the above-entitled matter, as taken by and
before SUSAN M. OLIVERI, a Certified Court Reporter
and Notary Public of the State of New Jersey, held
via REMOTE VIDEO CONFERENCE, on Monday,
October 16, 2023, commencing at approximately 10:30
in the forenoon, pursuant to notice.

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15 ALSO PRESENT: Bob Calvert, Notary Public for the
16 State of New York
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I N D E X

WITNESS
 JOEL STERN

D I R E C T

BY: MR. RAKHUNOV: 5

E X H I B I T S

NUMBER	DESCRIPTION	PAGE
STERN-14	E-mail dated February 10, 2021.	6
STERN-15	E-mail with an attachment 25-page document titled, "CT 41939.doc.	15
STERN-16	E-mail dated February 22, 2021	17
STERN-17	PDF of entire WhatsApp chat called Joel NY Gloves.	27
STERN-18	Five-Page document included in the WhatsApp text messages	37
STERN-19	Document sent in the chat at 7:04 p.m.	39
STERN-20	Attachment referenced in chat box from the produced WhatsApp conversation.	75
STERN-21	Word document sent to Mr. Kato and Mr. Gilling. Titled, "Declaration for boxes."	86
STERN-22	E-mail from Mr. Stern dated April 5, 2021, to Davidd@MD3PL.com.	103
STERN-23	E-mail chain latest E-mail in time is April 6, 2021, from you to Don Alston	103
STERN-24	E-mail from Vania Maciel from MD 3PL to David Dembitzer and you, re: JNS container, dated April 13, 2021.	108
Exhibits retained by Counsel		

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1 J O E L S T E R N, doing business at 155 Skillman
2 Street, Brooklyn, New York is affirmed by Bob
3 Calvert, a Notary Public of the State of New
4 York and testifies under oath as follows:

5

6 DIRECT EXAMINATION BY MR. RAKHUNOV:

7 Q All right. Good -- still morning,
8 Mr. Stern. Since we suspended your deposition on
9 Friday, I guess that was the 13th of October, have
10 you discussed your testimony with anyone at all?

11 A No, except my attorney.

12 Q You did discuss it with your attorney?

13 A Yes, not much, just continuation and
14 follow-up.

15 Q I don't want to know the substance,
16 just yes or no?

17 A Yes.

18 Q How long did you speak with your
19 attorney about your deposition testimony?

20 A About five minutes.

21 Q Did you review any documents and
22 materials between Friday and today?

23 A No.

24 Q Did you speak with anyone other than
25 your attorney about this case, whether or not it

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1 had anything to do with your testimony?

2 A No.

3 Q So do you have the exhibit, the final
4 exhibit window that we used last time in front of
5 you, sir?

6 A Yes.

7 Q Okay. So I put a few exhibits in there
8 that just to try to move things along. I will ask
9 you to open up what's been labeled as Stern-14.

10 A Okay.

11 Q That is, for the record, Stern-14 is an
12 E-mail from you to SourcingconnectionNY@gmail.com.
13 Let me know when you have that open, and it's dated
14 February 10, 2021.

15 A Okay. I got it.

16 Q Okay. So please review the E-mail, and
17 let me know if you recognize the E-mail.

18 A Yes, I recognize the E-mail.

19 Q Okay. Do you remember, this? This is
20 an E-mail from you to Bruno Azra; correct?

21 A Correct.

22 Q He is the broker that put you in touch
23 with Rock Fintek in the beginning; correct?

24 A Correct.

25 Q So why were you writing this E-mail on

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1 **February 10, 2021, to Bruno?**

2 A Uh, the first delivery that was happening in
3 February, a customer may not notice, but in the
4 warehouse, it was a mix up in the sizing.

5 Mix up means that the boxes were not packed
6 correctly. Mix sizes in the same box or the same
7 issue that we have discussed on Friday, meaning,
8 that some boxes might be mixed, sizing inside, and
9 some of them just different sizing that is on the
10 box.

11 What I'm saying box meaning a carton. So some
12 cartons has not matching the contents of the -- you
13 know what, let me start over because this is a new
14 recorder.

15 We dealing with gloves, which is in a tissue
16 size box -- we're dealing with gloves. That is 100
17 gloves per tissue size box, and then we have 10 of
18 these boxes in a carton.

19 **Q Okay.**

20 A So at that time, we received the cartons with
21 either mixed sizing inside or wrong sizing.

22 Wrong sizing means that the carton, let's say,
23 marked medium on the inside were small or large,
24 and to fix that, we have to spend hours of time to
25 manually repackage them, take them out of the

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1 original boxes, and put them back to the original
2 boxes.

3 **Q And who did the repackaging for you?**

4 A Uh, Bruno hired a few people or a company.
5 I'm not sure. He managed to do that for me, and --

6 **Q So was it, so was it the warehouse**
7 **employees that did the repackaging or some**
8 **third-party?**

9 A I cannot say for sure because I was not there
10 personal, but all I know is that Bruno, himself,
11 took care of it. He managed to get some people to
12 work in it, manual work, and put it back in the
13 boxes to get them ready to be shipped out.

14 **Q Do you know where this repackaging took**
15 **place?**

16 A Uh, to the best of my knowledge, took place in
17 the warehouse. They gave him a certain area that
18 he can work with.

19 **Q And when you say "warehouse," you mean**
20 **the warehouse in New Jersey?**

21 A In New Jersey, correct.

22 **Q But not overseas, once the gloves were**
23 **shipped?**

24 A No, no, here in New Jersey.

25 **Q Okay. And so when the cartons arrived**

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1 in this first shipment, if I understand your
2 testimony correctly, then what was the, then what
3 was on the outside of the round carton box was
4 different from the actual tissue box, tissue boxes
5 of gloves within those cartons?

6 A Correct.

7 Q Okay. So just to look at a couple, I
8 want to ask you about a few things in this E-mail.

9 So you said a moment ago that the customer did
10 not notice. So how did this, if I heard you
11 correctly, how did this issue come to your or
12 Bruno's attention?

13 A Uh, because the same as we have explained on
14 Friday, before shipping out anything, first of all,
15 I make clear to the warehouse what to send, how to
16 send, how much of each size, and make sure that
17 exactly what was ordered, this is sent to the
18 customer.

19 In this case, we know that we need only
20 examination gloves and the specific size mix.

21 I'm not sure who was the one opening a box to
22 check it out, this is either the warehouse or
23 Bruno, himself, because that time especially the
24 initial order, Bruno, himself, was very involved to
25 make sure that everything is successfully and as

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1 confirmed between the customer and me.

2 So, therefore, he went personally to the
3 warehouse to double check everything, and he
4 somehow, either he or the warehouse people realized
5 that this is a problem in the size mix, but before
6 putting out on the truck, they arranged all this
7 work to be done.

8 When the customer got it, he -- I don't think
9 there is a way, unless he might notice that the
10 boxes were opened and re-taped, but other than
11 that, everything was already done in a perfect way.

12 Q And throughout your, you know,
13 throughout your work and selling these gloves to
14 Rock Fintek and to your other customers, if there
15 was a reason for you to have the cartons, the round
16 cartons opened and repackaged, you had the ability
17 to do that; correct?

18 A Not really, no. Not --

19 Q Didn't you just testify that that
20 happened here?

21 A Yes, and this is, first of all, thanks to
22 Bruno that he was personally going over to the
23 warehouse before shipping to do the work, and he
24 had to get permission from the warehouse to get an
25 area.

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1 I don't know how, what size. I mean, what the
2 size of the area of the warehouse, and this is a
3 busy warehouse. They have to give him some room
4 somewhere to work, and most of the time, first of
5 all, I usually never run over before shipping goes
6 out, or I was personally the warehouse many times
7 just to inspect what I got, but not before a
8 shipment was shipping out, and especially later on,
9 when the shipment was going out of California,
10 there is no way for me to run over.

11 There is really, I mean, technical if I would
12 be there, and I would ask for it, I don't know,
13 maybe it would be possible, but in this case, I
14 never had a chance to do that. I'm really thankful
15 to Bruno because, otherwise, this would be a mess,
16 if this got to the customer that way.

17 And after we learned that problem, this is
18 what the E-mail is about, we hired, we hired in the
19 E-mail that we looking at, it says that we hired
20 security overseas before they, the company shipping
21 the goods to me.

22 **Q So that was my next question. You**
23 **reference here to hiring private security. Where**
24 **was this private security hired?**

25 **A** Overseas. We paid, I mean actually not me,

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1 but in this case, was Kitchen Winners paid to a
2 private company to do quality control.

3 This is why we call it security because this
4 is not part of Medcare company. This is private
5 people hired by either by Kitchen Winners or at
6 their direction, I'm not sure, to do quality
7 control to make sure whatever goes on their
8 container to come to New York should be the way we
9 ordered.

10 Q Do you know who the private security
11 were? Like what the name of the company or
12 individuals were involved in that work?

13 A No, I have no idea. Was nothing between,
14 nothing that I was in charge of.

15 Q So just to be clear, I want to make
16 sure I understand your testimony.

17 So you are testifying that Bruno or somebody
18 at the warehouse realized that the sizes, that the
19 information about sizing on the cartons was
20 inconsistent with the tissue boxes of gloves
21 actually inside the cartons; so far am I correct?

22 A Yes.

23 Q And so they went through this first
24 order, this container, and they repackaged the
25 gloves to fix the issue; is that correct?

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1 A Correct.

2 Q Do you know if this took place at the
3 New Jersey warehouse or the Los Angeles warehouse
4 or something else?

5 A Only in the New Jersey warehouse, and only for
6 the first container or so.

7 Q So and this is, the New Jersey
8 warehouse is Avery Logistics; correct?

9 A Correct.

10 Q So at least at the New Jersey
11 warehouse, you had the ability to have folks over
12 there open the cartons and repackage them, if they
13 realized or if someone realized that that was
14 necessary; correct?

15 A Look, I never tried. So I cannot testify that
16 I have the ability. That initial, only Bruno was
17 there, not me. He had managed to get it done
18 somehow, and I'm thankful this was done, but other
19 than that, I never did that any order.

20 Q Well, at the time that Bruno, according
21 to your testimony, did this work, who did the
22 gloves belong to? They were still yours; correct?

23 A Was mine, correct, and under JNS, but I
24 never -- I was never there for, for that time to
25 open boxes and do anything.

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1 I was there just to check the initial, the
2 receivings. We only opened one box or two boxes
3 just to make sure that looks okay, and that's it.

4 Q Do you know who -- did the warehouse
5 workers do the work for free?

6 A No, definitely not.

7 Q Who paid for that work?

8 A I paid extra few thousand dollars for that. I
9 paid to Bruno an extra, I don't remember the exact
10 amount, but a few, couple of thousand dollars.

11 Q Did you pay it --

12 A To Bruno.

13 Q Did you pay it to Bruno or to the
14 warehouse?

15 A No, I paid, this time I paid it to Bruno.

16 Q And how did you pay it?

17 A The same way I paid him his commission, wire
18 or check, I don't remember, but I remember that he
19 got an extra, like an extra commission.

20 I couldn't touch the amount because there was
21 many people involved, if you know the chain behind
22 Bruno. I don't know all the people, but they talk
23 about Ms. Lee, and I don't know who else, but the
24 commission was paid and separately I gave him
25 another check or wire for a couple of thousand

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1 dollars to cover these expenses.

2 Q And the record of that payment would be
3 in either your bank, it would be in your bank
4 account from that time period; correct?

5 A I guess so. I don't know what, I guess so. I
6 got to look her up and find them, but should be in
7 the bank.

8 Q Okay. You can close that exhibit, and
9 please open Stern-15, should also be in the, in the
10 final exhibits folder.

11 For the record, this is an E-mail with an
12 attachment from you to someone named Shimon,
13 S-H-I-M-O-N, from Fried, F-R-I-E-D, at
14 Starpluscapital.com, and it attaches a 25-page
15 document that's titled, "CT 41939.doc. Let me know
16 when you have that open.

17 A I got it.

18 Q Okay. Who is Shimon Fried?

19 A Shimon Fried is also just a guy that I know
20 that he has connections with a few wealthy people
21 that own nursing homes and similar facilities, and
22 I ask him his help, if he can get me some
23 customers.

24 So one of the, part of the information how to
25 get a customer was to forward him an inspection

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1 report, which CT 41939 is actually an inspection
2 number, if you look at the first page of that
3 inspection report.

4 And I just gave him that as a sample to
5 forward to his people he knows, try to make a sale.
6 Actually, then we never did anything, but at least
7 we tried.

8 Q Okay. That was my next question. Did
9 you ever obtain any clients through Mr. Fried?

10 A No.

11 Q And the inspection report that's
12 attached is done by a company named CTS Inspection;
13 do you see that?

14 A Correct.

15 Q And under the heading "Client," on the
16 first page of the report, it says, "Kitchen
17 Winners, Inc." Do you see that?

18 A Correct.

19 Q Okay. Did you obtain this inspection
20 report from someone at Kitchen Winners?

21 A Yes.

22 Q Okay. Did you personally have any
23 involvement in any testing or reports performed on
24 the gloves that you sold to Rock Fintek?

25 A No.

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1 Q Okay. Please turn to Stern-16.

2 A Okay.

3 Q Stern-16 is an E-mail dated
4 February 22, 2021. Again, this is one-page
5 document produced to us by your Counsel from
6 someone named Thomas Landrigan, L-A-N-D-R-I-G-A-N.
7 Appears to be an attorney at the firm of Cohen
8 LaBarbera and Landrigan, L.L.P., to you and a
9 number of others.

10 Who is Mr. Landrigan?

11 A Give me a minute. Let me refresh my memory
12 here.

13 Q Sure.

14 A Okay. So this Thomas work for that, uh, law
15 firm. I don't remember at the moment the name of
16 that attorney that I was dealing with. Maybe it's
17 mentioned somewhere. I don't remember. Uh.

18 Q So were they representing you or
19 someone else in this?

20 A Okay. So this is, this is, uh, in regards to
21 the AMCM gloves, that I also got some of them,
22 which is just for the record for the new recorder,
23 I got Medcare gloves for a company Kitchen Winners,
24 and I also got some later on, not that much, but
25 some gloves for a company named AMCM.

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1 So before they form the AMCM legal company
2 name, it was me, my name Joel Stern, with a guy
3 named there I believe Abe Mandel, I guess so, yea,
4 "AM" stands for Abe Mandel.

5 So Abe Mandel together we formed some kind of
6 partnership into a legal name of, it was another
7 legal entity, doesn't mentioned here. I don't
8 remember, but to form a partnership between me and
9 him, and then he created the company AMCM with his
10 partners to get Medicare gloves and send it to me,
11 and this is part of the setup here.

12 I don't remember all the details, but this is
13 part of the setup. I said, I don't remember all
14 the details, but this is part of the setup of that
15 partnership for me and that other company.

16 **Q Okay. So let me break that down for a**
17 **minute. So you know Mandel, who is mentioned in**
18 **the, in the first paragraph of the E-mail, he was a**
19 **part of AMCM, or he was your partner?**

20 A Uh, in short, both. I tried to explain it to
21 the best of my memory, but I don't remember
22 everything.

23 Uh, I was coming in as a money partner in this
24 company. Money actually was not my money. I took
25 that money from investors.

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1 He had partners that helped him get the gloves
2 from Medcare, but to make it work for both parties,
3 he made one company named AMCM Glove, L.L.C., which
4 is his company and with together with his partners
5 in this case I would say that this is like the
6 competition of Kitchen Winners, and then we formed
7 another L.L.C., which is not mentioned here, and I
8 can't remember the name, but something like the
9 first initials of my and his name, I don't remember
10 exactly, to be the investors in this purchase.

11 So me, together with him, was supposed to put
12 in the money, as you see there, 50 million,
13 together or separately. I don't remember, to get
14 the capital to bring in the Medcare gloves.

15 **Q So AMCM was the seller?**

16 A Correct, and I have no partnership in AMCM.

17 **Q Okay. And the buyer was this new**
18 **entity that was formed --**

19 A No.

20 **Q -- 50/50 Stern and Mandel?**

21 A No, the buyer was JNS.

22 **Q Okay. So where does the 50/50 Stern**
23 **Mandel come into the picture here?**

24 A The investor for AMCM.

25 **Q I apologize, I'm just not fully**

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1 understanding. So AMCM, AMCM was selling gloves to
2 JNS?

3 A Correct.

4 Q AMCM was buying gloves from who, to
5 your knowledge?

6 A Medcare.

7 Q Okay. And in this, it is your
8 testimony that you and Mr. Mandel formed another
9 entity in which you were 50/50 partners?

10 A Correct.

11 Q And was it you personally that was a
12 member in that new entity, or was it JNS that was a
13 member in that entity?

14 A Good question. I don't remember. I'm sorry.

15 Q Okay. And what was the role of the,
16 I'll call it Stern Mandel entity? What was the
17 role of that entity?

18 A To be the investors, bring in capital to AMCM.
19 They should be -- AMCM should be able to procure,
20 to purchase the gloves from Medcare directly and
21 then sell it to whoever they need to sell it,
22 including myself, JNS Capital.

23 Q So you and Mr. Mandel would fund AMCM,
24 who would then purchase the gloves from Medcare and
25 then sell those gloves to you?

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1 A Correct, this was like a double type of
2 partnership, not a direct double, but one part of
3 it has nothing to do with the other one.

4 Let me just repeat it. As a 50 percent
5 investor, this is one deal that I made with
6 Mr. Mandel, that I'll bring through my network some
7 investors to invest in AMCM. AMCM will have the
8 capital to buy gloves.

9 These gloves that AMCM purchased directly from
10 Medcare doesn't belong to me or anyone. It belongs
11 just to the company named amount AMCM. They have
12 the right to sell it to the open public.

13 Besides that, made another deal with JNS
14 Capital, which is my company, to purchase part of
15 these gloves to, for myself to sell it.

16 Q Do you know the price at which AMCM was
17 buying gloves from Medcare?

18 A Uh, no. I don't remember this time. I mean,
19 at this time was --

20 Q Did you know at the time as an investor
21 in AMCM what AMCM was paying for the gloves that it
22 was buying from Medcare?

23 A Kind of like, if you want me just to guess out
24 of my memory, I would say that the, that the raw
25 price I paid was in the range of around \$6, and

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1 this is just for the gloves itself. Then there is
2 all the logistics and all the expenses around,
3 which I have no idea.

4 Q I don't want you to guess. My question
5 was a little different.

6 It's not what the number was, but at the time
7 that these transactions were taking place, did you
8 know the price?

9 A At that time, we have open conversations, yes.

10 Q Did you have any operational role in
11 AMCM aside from being a 50 percent investor?

12 A Nope.

13 Q Were you -- did you have any ownership
14 or membership interest or any equity in the AMCM
15 glove?

16 A No, they didn't want me in there.

17 Q How do you know Mr. Mandel?

18 A Also a person from my community.

19 Q Have you done business with Mr. Mandel
20 other than this venture that is described in the
21 exhibit before you?

22 A No, never before and nothing after so far.

23 Q And have you spoken with Mr. Mandel
24 about the issues with Medcare gloves that are
25 involved in this litigation?

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1 A No.

2 Q Do you know if Mr. Mandel is aware of
3 the existence of this litigation?

4 A I have no idea.

5 Q All right. So I want to turn to your
6 relationship with Rock Fintek.

7 So we've already gone over the initial
8 transactions where you communicated with them
9 through Bruno. We don't need to revisit that.

10 When do you recall first having any contact
11 with either Bradley Gilling or Thomas Kato oh spell
12 check.

13 A So looking back, to the best of my memory and
14 knowledge, uh, the sale with Bruno happened
15 somewhere around February, but we were busy with
16 that weeks before, maybe months before. I don't
17 remember when it started, but this is all with
18 Bruno.

19 After that, uh, we had, we just discussed
20 before, we had a hard time in the first delivery
21 that Bruno worked overwhelmed and hired them people
22 during the pandemic, which was really hard at that
23 time, and together special permission from the
24 warehouse bring in outside people to work,
25 repackaging them. It was very hard job.

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1 And then I had many more containers on the
2 water that got, as was later, got they was notified
3 that everything is, we gonna have some waiting
4 time. So shipments were not coming in as expected
5 on time, and this is when we got a break.

6 So I don't remember exactly, but as far as I
7 remember, we gave him like three deliveries in
8 February, and then it stopped because we were short
9 on stock.

10 **Q Short of stock, S-T-O-C-K?**

11 A Stock, right. We didn't have inventory.
12 Everything was on the water, waiting to arrive in
13 the United States.

14 **Q And then in some point in March --**

15 A And then some point in April, I would say
16 April, not March, if I remember. First of all, I
17 didn't have any contact information to these, any
18 of these guys from Rock Fintek.

19 I didn't even know their names, maybe I notice
20 a name on the signed document, but that's all, but
21 when the shipments finally arrived, and we have a
22 few customers, but we were also trying to get more
23 because I had ability at that time to get much more
24 glove. I start looking around. What else I can
25 do.

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1 So this relationship with Bruno,
2 unfortunately, stopped with this customer because
3 he didn't want to work so hard. So I on my own
4 tried to get their contact information. I don't
5 remember how I got it, by searching the name in
6 Google.

7 So somehow I got their contact information,
8 either their phone number or E-mail address
9 somehow, and I reached out to them if they got some
10 of my gloves, and if they are happy, and they want
11 to take more.

12 And they responded to get more and not only
13 more, they want, they start begging me how much I
14 can get. They would like to get much more, and
15 when I gave them the first -- I mean, I wouldn't
16 say first, but the first, the second time I gave
17 them the first order, around in April, it started
18 begging me as much as I can get them, I mean.

19 Everyone was low on stock still. Yeah, the
20 real stock, the real shipment start coming in, if I
21 remember, in May. This has when United States got
22 flooded, when the court opened everything, slowly
23 but surely got back into order, but until then,
24 everything was stuck and on the water. Everyone
25 was waiting for that shipments to come in.

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1 Q So as you sit here today, do you recall
2 who the first, you know, who you made contact with
3 first at Rock Fintek?

4 A First between Brad and Tom, I don't recall. I
5 spoke with one of them, and they connect me to
6 another one. I don't remember.

7 At one point when I spoke with Tom, he told me
8 that I have to discuss everything with Brad because
9 he's his main guy in the office, but who I contact
10 first, I don't remember.

11 Q So throughout your, just overall
12 throughout your relationship with Rock Fintek, by
13 what means did you communicate with Tom and Brad?

14 A Initially, I don't remember it was by phone or
15 E-mail or whatever. Then he asked me to please
16 follow-up with WhatsApp because that's the best way
17 for him to communicate.

18 He opened that Joel NY group on WhatsApp, and
19 it has another word. I don't remember. Glove.
20 Joel NY Glove. It was a WhatsApp group between me
21 and Tom and Brad, and this is I believe at that
22 time in the beginning we must have conversations
23 was taking place, and we have a few conference
24 calls and so on.

25 Q You spoke by phone with them, you

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1 communicated through WhatsApp, and by E-mail; is
2 that fair?

3 A That's fair, but unless I will check, I will
4 find more E-mails, I would say that the E-mail was
5 used solely for providing sharing information as
6 needed. Other than that --

7 Q You don't have to check right now.

8 A Okay. I get.

9 Q There is another time for that.

10 Can you open Stern-17, please, and so for the
11 record, Stern-17 is a pdf of your entire WhatsApp
12 chat called Joel NY Gloves. The first, the first
13 chat looks like it starts on March 26, 2021, at
14 11:55 a.m. It's a 31-page document, and the last
15 chat in time is July 20, 2021, at 6:35 p.m.

16 And for the record, the document that's before
17 you and the exhibit has some highlighting on it,
18 which I have added to it for the ease of deposition
19 questioning. So the highlighting did not appear in
20 the original document.

21 So let me know when you have that open.

22 A I have.

23 Q And I'll have a few questions for you
24 about some of the highlighted portions of the chat,
25 but to the extent you need to read any context

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1 around it, feel free to do that.

2 A Okay. So you can go ahead and start if I
3 finish or --

4 Q So this chat starts on March 26, 2021.
5 It's fair to say that you had already communicated
6 to some extent with either Tom or Brad or both
7 before this chat had started; correct?

8 A Makes sense, yes.

9 Q Okay. And so if you take a look at,
10 this is close to the top of the first page at
11 2:54 p.m., chat, where you write:

12 "Thank you, Tom, for the follow-up call. I
13 have reached out to one supplier and couldn't reach
14 my other one today. Based on your proposal, we can
15 definitely work out a deal and possibly start
16 getting deliveries in the first or second week of
17 April."

18 And then it goes on from there. Do you see
19 that?

20 A Yes.

21 Q Who would be the suppliers that you
22 reached out to that you reference in this E-mail?

23 A Again, for the record, I'll repeat myself that
24 I can answer to the best of my memory, and in
25 reality, I got gloves only from these two names

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1 mentioned before.

2 Number one, Kitchen Winners. It was the
3 majority of Medcare gloves, and, number two, is
4 AMCM, which later, later on I got some Medcare
5 gloves, I got more Medcare from the same brand
6 Medcare, M-E-D-C-A-R-E, gloves through the company
7 named AMCM, mentioned before.

8 However, in the meantime, I have, I was
9 communicating with other suppliers about the
10 possibility to get gloves especially for direct
11 order.

12 So I don't remember the quantity that was ask
13 for by Rock Fintek, but I remember they mentioned a
14 large quantity that they might need it a large,
15 meaning, large 50,000, 100,000, I don't remember
16 the numbers.

17 So I reached out to many others, not only
18 these two that I was dealing with, but I reached
19 out to many others if they would be willing to
20 supply this type of gloves and within their
21 timeline.

22 But now answer your question, which suppliers
23 I'm referring to, I cannot say for sure. I don't
24 remember, but either one of the two that I was
25 dealing with or others that I never end up dealing

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1 with.

2 Q Okay. At the bottom of page two of
3 this document, do you see just a line highlighted
4 at 2:37 p.m.:

5 "Brad, says hey, Joel, can we get on a call?"

6 A Yes.

7 Q You respond. So the phone calls that
8 you had with Brad or Tom or both, were they like
9 regular phone calls, or were you using the WhatsApp
10 voice call feature when you communicated with them?

11 A Oh, I don't remember. I'm -- actually, I
12 would say we used both. Sometimes this, sometimes
13 that, but was no, no, we had no rule on that. I
14 mean, whatever works at that time.

15 Q Okay. Go to page 3, please. There is
16 some, just a few lines highlighted.

17 A Okay.

18 Q I'll draw your attention to that part
19 of the page. So you write on April 6, 2021:

20 "3/31 OTG and LA, just me involved in the
21 process of being palletized."

22 Do you see that?

23 A Yes.

24 Q Okay. What does O-T-G mean?

25 A On the ground.

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1 Q Okay. So it means the goods are on the
2 ground in LA; correct?

3 A Correct.

4 Q All right. When you write, "Just me
5 involved," what do you mean by that?

6 A Uh, I don't remember all the details. If you
7 want me, I can go back and read a little more, but
8 to the best of my memory, uh, we were dealing here
9 with different lots of gloves on the same brand
10 Medicare.

11 It was the gloves that I got from Kitchen
12 Winners, which was explained on Friday, that I have
13 some other partners, the names Joel Levkowitz,
14 David Ruben, and Jay or Joe Masry, you remember
15 these names.

16 So I -- this was like a group, and then there
17 was the gloves that I owned under the same company
18 named JNS Capital Holdings, but no partners
19 involved. This was purchased through AMCM.

20 When I'm referring that no other people
21 involved, uh, usually what it meant is that no one
22 else has the authority to say yes or no, except me.

23 Because with the gloves from Kitchen Winners,
24 I had to get permission from my partners if they
25 want to sell it for this price and this and that.

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1 Q Understood. And at this time what
2 you're saying to Thomas and Brad, that these gloves
3 are on the ground, that means you have them, that
4 they're yours, right, you own them at that time?

5 A Correct.

6 Q And you were paying warehouse operators
7 to palletize the gloves; correct?

8 A Correct.

9 Q So --

10 A No, again, I don't remember offhand which
11 gloves I'm referring to here, maybe I can go back
12 and double check, but I don't remember, but
13 whatever it says, this is to the best of my
14 understanding what I meant.

15 Q So then you write at 2:19 p.m., this
16 is, this -- let me start again.

17 " This one is the same good gloves, inspection
18 and test reports showing examination but not
19 printed on the box... give me an offer, and we will
20 correct the boxes for you."

21 Do you see that?

22 A Yes.

23 Q Okay. What did you mean when you wrote
24 that?

25 A Again, I don't remember what was the story

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1 behind what -- you know what, give me a minute.

2 Let me try to read a little before and a little
3 after to refresh my memory.

4 To being honest, I, I can't remember which lot
5 of gloves this was. I remember at one point I had
6 an offer to buy and -- not to buy, to be a broker
7 and sell some gloves with protection on the boxes.

8 I don't remember if this is it or something
9 else. So you can go ahead with your question, but
10 I don't remember exactly which lot this is
11 referring to, and it doesn't say here between the
12 conversation what this is.

13 Q Okay. Well, when you just said a
14 moment ago, you had an offer to buy some gloves
15 that is protection. What do you remember about
16 that?

17 A This was through the same guys who was
18 involved in AMCM. That other Mendlowitz. So some
19 of, a few partners in AMCM has that last name.

20 One having the first name Cham, C-H-A-I-M, and
21 another one I believe was Joel, J-O-E-L, and they
22 were partners with that Mr. Mandel, mentioned
23 before, in the company AMCM.

24 And at one point they offered me to broker --
25 I never bought it, but they offered me if I can

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1 help them sell a few containers of Medcare gloves,
2 which was supposedly exactly the same type of
3 gloves, which means examination gloves, blue color,
4 nitrile, however their packaging was saying
5 protection, instead of examination.

6 **Q So isn't that exactly what you're**
7 **offering to Rock Fintek in this April 6, 2019, p.m.**
8 **message, where you write this is the same gloves**
9 **showing examination -- report showing examination**
10 **but not printed on the box, give me an offer, and**
11 **we will correct the boxes for you?**

12 A It makes sense, but I can't confirm something
13 that I am not 100 percent sure.

14 **Q Okay.**

15 A And just to add, if that's the case, we never
16 ended up -- I never took over that gloves, and we
17 never made that sale. I just tried to help these
18 people get rid of them.

19 MR. RAKHUNOV: Can we go off the record
20 for just 30 seconds. I guess let's take a
21 two-minute break.

22 (Whereupon, a discussion is held off
23 the record at 11:32 a.m.)

24 (Whereupon, record commences at 11:35
25 a.m.)

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1 MR. RAKHUNOV: Back on the record.

2 Q Mr. Stern, are you ready?

3 A Yes.

4 Q Okay. So if you go to the top of page
5 four of exhibit, this is Stern-17. This is the
6 continuation of your WhatsApp chat with Rock Fintek
7 on the same day of April 6, 2021, and let me direct
8 your attention to 6:44 p.m.

9 This the beginning of the next highlight. You
10 write:

11 "I'm back and just trying to follow-up. We
12 want to send you samples overnight. I'm sorry for
13 the unexpected break."

14 When you say "break," you mean the time lapse
15 that you just described a few minutes earlier, when
16 you didn't have inventory?

17 A Uh, no. I believe he was trying to call me.
18 As you see, the first line of that page, uh, Tom,
19 he's writing Joel -- the first line of this page
20 Tommy Kato is writing the following:

21 "Joel, is there a deal or this is dead?"

22 There is, as far as my understanding and my
23 memory goes back, he was trying to reach me, and I
24 was -- I don't remember where, but either on
25 another conference call or meeting somewhere. I

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1 couldn't, I couldn't respond.

2 **Q Do you see actually right below that**
3 **Tommy Kato writes:**

4 **"Why is Bernie messaging me?"**

5 **Do you see that?**

6 A Yes.

7 **Q Who is Bernie?**

8 A He is another guy, who was in that, in that
9 PPE business, and someone I was doing other
10 business with, but not PPE.

11 So sometimes he was trying to get involved and
12 do a deal together with me, and it never ever
13 worked out in this PPE.

14 **Q Do you know what Bernie's last name is?**

15 A Freilich, F-R-E-I-L-I-C-H.

16 **Q Why did Bernie Freilich have Thomas**
17 **Kato's phone number?**

18 A I have no idea. Might be on his own.

19 **Q Well, did you give it to him?**

20 A I don't -- I'm not recalling giving him this
21 number.

22 **Q Okay. So let's go back to --**

23 A But if you see on the timeline, there is
24 messaging at 3:49, 3:53, and then on a little later
25 4:32, Tommy is writing, "This lack of communication

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1 is not good," and that two hours later I came back,
2 "Hi."

3 So this was the long break of a few hours that
4 we couldn't get to respond to each other.

5 Q So you see at 6:47 p.m., Brad messages
6 you, "Sent pictures of the box."

7 A Yes.

8 Q You respond: "Okay. Let me" -- and
9 then you signed two attachments. Do you see that?

10 A Yes.

11 Q Okay. And the first attachment begins
12 with 00000099-CT 3711. That's the beginning of the
13 first attachment?

14 A Yes.

15 Q So let's take a look at that. That is
16 Stern-18. Let me know when you have it open. It's
17 a five-page document that was included in the
18 WhatsApp text messages, produced in this case.

19 A Okay.

20 Q And what is the document marked as
21 Stern-18?

22 A This is, again, a CTS Inspection Report. CTS
23 is the company who does inspections, and the number
24 CT 03711 is an inspection number. Says, "Pass
25 inspection," and this was for a certain lot of

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1 gloves.

2 Q Do you know what the inspection, what
3 the gloves are being inspected for by CTS?

4 A Most of these CTS inspections that you will
5 see in my attachments is all about the same, I'm
6 not sure who ordered these inspections, but it was
7 the Kitchen Winners or maybe some upscale, maybe
8 Medcare themselves, I'm not sure, but to make sure
9 that these are the gloves that we are looking for.
10 I mean, the, we ordered examination gloves,
11 the blue color, nitrile gloves, and they're a
12 certain quality, that it has to match the thickness
13 and the flexibility, and I don't know all the
14 details, but the company got a written list what to
15 look for and just to run it past.

16 Q Do you hold yourself out as an expert
17 in gloves in terms of quality and testing and
18 inspections?

19 A No, not at all. Before the pandemic I didn't
20 even know what all this is about, and at that time,
21 I got a little familiar but not as an expert.

22 Q So if you scroll down to page three of
23 Stern-18, do you see there some photographs of a
24 carton and then some tissue boxes within the
25 cartons of the Medcare gloves; correct?

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1 A Correct.

2 Q And at the bottom right, we can see
3 that, that the particular box says, "NitriForce NBR
4 nitrile examination gloves"; correct?

5 A Correct.

6 Q Okay. So you can close that document,
7 and so back to Exhibit Stern-17 for a moment. You
8 can look on, but you don't have to -- I just want
9 to put on the record that the second attachment
10 that you sent in this chat is at 7:04 p.m., begins
11 with 00000100-CT 04130 underscore 20210311. That's
12 what it begins with. Okay.

13 And I am now going to direct your attention to
14 Stern-19, which is that document that you sent in
15 the chat at 7:04 p.m. Let me know when you get
16 there.

17 A Okay.

18 Q And if I direct your attention to page
19 three of Stern-19, do you see there some
20 photographs there of Medcare gloves?

21 A Yes.

22 Q Okay. And these boxes say, "NitriForce
23 synthetic nitrile protection gloves"; do you see
24 that?

25 A Yes.

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1 Q Okay. So having looked at the two
2 attachments that you sent on April 6th, does that
3 refresh your recollection about what you meant when
4 you wrote to Rock Fintek earlier on April 6th:

5 "This one is the same good gloves inspection
6 and test reports showing examination but not
7 printed on the box. Give me an offer, and we will
8 correct the boxes for you."

9 A This, uh, explains the different boxes, but it
10 doesn't, it doesn't say which lots or which owner
11 of these gloves is coming from.

12 So that, to that extent, if that was the
13 gloves meant to come from AMCM or this was
14 something else, I don't remember correctly, but
15 this is explaining exactly what is the difference
16 in the boxes.

17 This box is saying protection, and the other
18 box is saying examination.

19 Q That wasn't my question. So go back to
20 bottom of page three of Exhibit Stern-17. Again,
21 you write on April 6th of 2019, p.m.:

22 "This one is the same good gloves inspection
23 and test reports showing examination but not
24 printed on the box. Give me an offer, and we will
25 correct the boxes for you."

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1 Do you see that?

2 A Yes.

3 Q Okay. So you are writing about the
4 protection gloves here and telling Rock Fintek that
5 they're the same good gloves but don't say the word
6 examination; correct?

7 A Correct.

8 Q Okay. And you're asking for an offer,
9 and you're offering to correct the boxes; do you
10 see that?

11 A Correct.

12 Q How were you going to correct the
13 boxes?

14 A Doesn't it say there?

15 Q If it does, please show me where.

16 A All right. Read the whole story. One of the
17 options that I remember, again, off my memory was
18 that we will provide them original packaging or
19 stickers from Medcare to Tommy, and they will do
20 the work for me.

21 Q What work?

22 A Uh, to correct the boxes, to correct the
23 packaging.

24 Q All right. Did that happen?

25 A As far as I remember, unless otherwise

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1 mentioned somewhere, it's never worked out at all.

2 They didn't took over this load, and I didn't
3 end up selling this load. This is, this is what I
4 remember.

5 Q Okay. So for, okay, putting aside Rock
6 Fintek, did you ever correct any boxes for any
7 other customer by putting the examination stickers
8 over boxes that didn't say examination on them?

9 A No, I didn't have not the manpower and nor the
10 place to where to do it.

11 As I live in New York, in Brooklyn, and my
12 basement, I don't have place for these gloves, and
13 the gloves were -- the majority in the beginning,
14 the majority of the gloves was in New Jersey, which
15 right away went out to the customers, and then all
16 the leftover gloves was receiving in LA,
17 California.

18 And I needed a sample. I had a nightmare to
19 get one box over. It cost me like close to \$200 to
20 get one box over by UPS, in order to get samples.

21 So there is no way for me to get this, this
22 job done. I have manpower; no place to do it.

23 Q Did you ever see while doing -- well,
24 let me be more precise.

25 Did you ever see with your own eyes in 2020 or

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1 2021 boxes of gloves that were corrected with, as
2 you said, corrected with a sticker that said
3 examination on them?

4 A Nope, never. As far as my inspections, my
5 personal inspections, when I went over to the
6 warehouses, when I had a chance was always only
7 examination, and if something else was mention, I
8 right away raised a red flag that this is not what
9 I ordered.

10 As far as my information received from my
11 warehouse, my goods were I would say 99 percent or
12 100 percent examination gloves, and when I sent out
13 to customer Rock Fintek, I always called up my
14 contact at the warehouse and asked them to please
15 double check before the shipping goes out that only
16 examination gloves are put on the order, nothing
17 else.

18 Q I understand that is your testimony.

19 So but you do agree that Rock Fintek did not
20 want to buy gloves at any point in their
21 relationship with you that said protection or
22 anything other than examination on the boxes;
23 correct?

24 MR. FRISCH: Objection.

25 A I agree for the time being, but as a matter of

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1 fact, uh, a little later on in about April or May,
2 when we're starving to get more product, and we're
3 short on product, I didn't have at that time
4 available, and the same thing Kitchen Winners
5 didn't have other gloves available.

6 I've spoken back then with Hershel Weiner of
7 Kitchen Winners, and he offered them four
8 containers of protection gloves, and they accepted
9 it, and they said it was okay.

10 So even though in my level and JNS Capital, I
11 might not never sold them at least on purpose
12 protection gloves, but on the other end with
13 Kitchen Winners, they accepted officially
14 protection gloves, and at that time we didn't have
15 anything else, and they said was okay.

16 And they never came back complaining to me
17 that something is wrong with my boxes. The first
18 initial time when I find out that they have a
19 problem was at the end of this, which is --

20 **Q Mr. Stern, let's focus on my questions**
21 **for now, otherwise, we will be here the whole day.**

22 So you just, now, I will break down what you
23 just said. You just testified that that it is your
24 understanding that Kitchen Winners sold Rock Fintek
25 protection gloves, and that they accepted them, and

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1 said those gloves are okay. Is that your
2 testimony?

3 A Yes.

4 Q Okay. How do you know this? Let's
5 start with that. How do you know what you just
6 testified about?

7 A Based on conversation I had back then.

8 MR. FRISCH: Objection.

9 A What --

10 Q Sorry, I think there was an objection,
11 but please state your answer again to make sure the
12 answer is clear.

13 A Okay. So based on the conversation I had with
14 Hershel Weiner, Kitchen Winners at that time, he
15 sold, uh, Kitchen Winners sold to Rock Fintek like
16 four containers with the boxes saying protection
17 gloves, and they accepted it, and they said it's
18 okay.

19 Q When did this conversation with you and
20 Mr. Weiner take place?

21 A Awhile ago. I don't remember.

22 Q Well, do you remember whether it was in
23 the summer of 2021, or while you were still doing
24 business with Rock Fintek?

25 A No -- I'm sorry -- I would say it was around

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1 that time March, April, May. I mean some before,
2 during, or after the shipping. At that time, we
3 were communicating between each other from
4 time-to-time.

5 Q Okay. And what exactly did Mr. Weiner
6 tell you?

7 A Uh, don't catch me on the wording, but
8 basically, the idea was that, uh, we were both out
9 of stock, and I will get to it maybe later on.
10 At one point he took over my leftover stock
11 after I finish selling, and he took over to sell
12 for Rock Fintek, but before that, we were both low
13 in stock. Rock Fintek was begging for Medcare
14 glove, and they were very satisfied with these
15 gloves, and they asked me, and I guess they asked
16 me and I guess they asked Kitchen Winners, the
17 same, to get as much as possible of this Medcare
18 gloves to fulfill their PO to their customer, which
19 we didn't know, by the way, who their customer was
20 at that time, but anyway, uh.

21 MR. FRISCH: Excuse me, Joel, I missed
22 a few words. I don't know if everybody else did,
23 but I missed sounds for a few seconds.

24 MR. RAKHUNOV: I'm hearing him loud and
25 clear. So as long as the court reporter is, too.

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1 THE COURT REPORTER: I can hear.

2 A So let's start over somewhere in the middle.

3 At that time in April or May of 2021, JNS
4 Capital, I and JNS and Kitchen Winners, they're
5 both low on stock waiting for the inventory to come
6 in, and, in the meantime, Rock Fintek was begging
7 to get more gloves to fulfill their order for their
8 customer, which at that time, by the way, I didn't
9 know who their customer was.

10 And this is when Kitchen Winners called for,
11 to Rock Fintek, for four containers of gloves with
12 the label protection -- I mean, I'm sorry, not the
13 label, but the box saying protection, and they said
14 they accept it, and then when they receive it, they
15 said okay.

16 Q Did Mr. Weiner tell you whether there
17 was a contract between Kitchen Winners and Rock
18 Fintek for protection gloves? Did he -- what else
19 did he tell you about these four containers of
20 protection gloves?

21 A About, about these four containers, he didn't
22 tell me much more, but in general, uh, there was
23 some communication going on between me and Kitchen
24 Winners because -- to explain it, you will have to
25 give me a minute to go back.

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1 I had sold to Rock Fintek back in
2 February 2021. Then we had like a break for two
3 months until April 2021, which I reached out to
4 Rock Fintek and made a sale. At the same time --
5 if I am going too fast, tell me.

6 And at the same time, I'm not sure if Rock
7 Fintek reached out to Kitchen Winners or the
8 opposite. Uh, if Kitchen Winners have someone like
9 a salesman reach out to Rock Fintek on their own,
10 but somehow Rock Fintek and Kitchen Winners got
11 connected communicating about the contract of
12 like -- I don't remember the number, but in the
13 range of a million gloves or maybe more.

14 And this was at the same time I was selling, I
15 was trying to sell them what I had.

16 At first I sold some of my inventory to Rock
17 Fintek, and they were begging me for as much as
18 possible. When they asked me for extremely large
19 number that I wasn't able to or capable to deliver
20 them on my own, I reached out to Kitchen Winners,
21 who was my supplier at that time, if I can accept a
22 contract with that much of gloves to fulfill such
23 an order.

24 So he said let's have a conference call
25 together. This is when I connected Rock Fintek to

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1 Kitchen Winners with me about, and soon later, they
2 realized -- Kitchen Winners realized that this is
3 the same customer that they been dealing on their
4 own before I bring them together.

5 So to fast forward, I don't remember all the
6 details, but to make a long story short, I sold
7 them a nice few containers of gloves during the
8 months of April and the beginning of May.

9 At the same time Kitchen Winners worked out a
10 contract with Rock Fintek for millions of boxes of
11 gloves, I'm not even sure the exact amount, and
12 when I stopped selling because they start --
13 because Kitchen Winners took over, at one point
14 Kitchen Winners ran out of stock and Kitchen
15 Winners came to my if he can take over my whole
16 leftover stock to fulfill their orders until they
17 get their new stock.

18 So at one point, I don't remember dates, I'm
19 sorry for that, but let's assume it was in May, uh,
20 Kitchen Winners took over most or everything that I
21 have left over in LA at that time, and as far as my
22 memory goes, uh, I was told that they just
23 delivering to public warehouse, where Rock Fintek
24 is sending their truckers to pick them up. They're
25 not delivering to any customer, and they don't know

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1 the customer.

2 Q So have you ever seen the contract
3 between Rock Fintek and Kitchen Winners
4 and Adorama?

5 A No.

6 MR. SPERBER: Objection. Note my
7 objection to the form of the question.

8 Q Did you ever see that contract?

9 A No.

10 Q Okay. So you were relying on whatever
11 Mr. Weiner told you about the terms of the deal
12 between Rock Fintek and Kitchen Winners and
13 Adorama?

14 MR. SPERBER: Objection to form.

15 A I didn't really -- I wasn't really involved in
16 their contract. All was, all I took care was that
17 I have a customer I wanted to sell. He has a
18 customer who wanted to sell, and we are trying to
19 find a way that everyone should be okay and in a
20 nice way.

21 Q So putting aside your testimony about
22 what Mr. Weiner told you regarding his dealings
23 with Rock Fintek, your understanding was that Rock
24 Fintek at all times when dealing with you wanted
25 only examination gloves; is that still your

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1 **testimony?**

2 MR. FRISCH: Objection.

3 A My understanding is they order examination
4 gloves because this is what was preferred to the
5 customer, and based on conversations that I
6 remember having with them, they didn't want to run
7 in complication explaining to the customer that
8 this is the same glove, not no matter necessarily
9 that the glove is wrong, just as a matter that the
10 packaging is wrong, and they will have to deal with
11 their client and end users. To explain all of this
12 will take them just like a pain in the neck.

13 So, therefore, they prefer not to deal with
14 the protection gloves and receive only examination
15 gloves.

16 At the same time, as I explained before,
17 whenever I went over to the warehouse, I made sure
18 I inspected my goods, and I always confirmed that
19 my inventory is examination gloves, and the same
20 happens when I send out to a customer, I always
21 called up the contact at the warehouse at that time
22 to please double check and not only in the records
23 but to open actually boxes and double check that
24 the goods inside is examination gloves before it
25 goes on the truck.

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1 Q So when you say whenever I went over to
2 the warehouse, let's start with New Jersey. How
3 many times did you visit the New Jersey warehouse
4 to inspect the goods?

5 A Uh, I would say roughly like five times. I
6 couldn't say I was in each and every receiving, but
7 I wanted to spot check to make sure. Once I seen
8 that all of them are the same and don't forget was
9 the pandemic and a lot of going on.

10 So I didn't ran over to each and every one.
11 Sometimes I asked my contact at the warehouse to
12 make a video call and show me the boxes.

13 And the same applies to Los Angeles, which is
14 for me a ride of hours and was not that -- it would
15 cost me a fortune money and time to go over and
16 back to each and every receiving.

17 So I asked contact, my people, the people at
18 the warehouse to show me a video of my receiving
19 and to make sure that these are examination gloves.

20 Q Still, again, back to New Jersey.

21 So you say you went there yourself, Joel
22 Stern, about five times?

23 A Probably, yes.

24 Q Okay. Did you ever go to the LA
25 warehouse yourself physically?

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1 A I think I was once there, but I can't recall
2 for 100 percent.

3 Q And then when you went to the New
4 Jersey warehouse about five times, what steps did
5 you take to check that all of the gloves were what
6 you claim they were?

7 A I went in the warehouse, actually not in the
8 offices, but in the warehouse where the inventory
9 was stocked, and they showed me all my inventory.
10 They even showed me, look, this is someone
11 else, and this is a third-party, but this is all
12 yours and check it out.

13 Q And what did you do? Did you open
14 cartons? Did you --

15 A I spot checked some cartons. I didn't open
16 all the cartons, but like, let's say, I don't
17 remember how many pallets was on a container was
18 coming, skids was coming out of a container, but,
19 let's say, for just an example, uh, let's say,
20 that, uh, 80 pallets of a container, I opened,
21 let's say, five pallets, spot check.

22 I opened one carton of each pallet and look
23 inside the tissue boxes to make sure that these are
24 examination gloves.

25 Q And then after you opened these

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1 **cartons, did you have them resealed so they could**
2 **be sold to the customer?**

3 A Yes, sure. Nothing changed, just open it up
4 and closed it back, and that is it.

5 Q And when you during these visits to the
6 warehouse, did you take photographs of your goods
7 so you could have some record of it?

8 A I really don't remember, and if it was, was on
9 my old phone, but at that time, there was no real
10 reason for me to take pictures because I didn't
11 need pictures for anyone at that time.

12 Q Well, when Brad asked you to send
13 pictures, so you didn't send actual pictures. You
14 sent two sample -- you sent him two inspection
15 reports; correct?

16 A It depends when. At this time --

17 Q In the chat that we looked at a few
18 minutes ago.

19 A Right, that was inspection report used for
20 sample because in the inspection was a picture of
21 the box. It was one way to show a sample, but also
22 as we, as we said on Friday, I had a few individual
23 tissue boxes of gloves with me, and whenever they
24 need, I could just show a picture or something as a
25 sample.

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1 Q All right. So let's get back to
2 Exhibit 17. This is the chat we're still, let's
3 get to the bottom of page four.

4 So at 7:51 p.m., Brad writes to you:

5 "'Protection gloves' instead of 'Examination
6 gloves' is an issue." Do you see that?

7 A Okay.

8 Q You see where he writes that?

9 A Yes.

10 Q Okay. And you respond, "It's the same
11 gloves, just different packaging."

12 Do you see that?

13 A Okay.

14 Q And you write, "We can get you the
15 inspection reports."

16 A Yes.

17 Q And then you write, "If you take both,
18 we can do a deal of 12.5." That means \$12.50 a
19 box?

20 A Correct.

21 Q And then you write, "But if you take
22 only the examination ones, we got an offer of
23 13.50, and I need another day or so."

24 Do you see that?

25 A Yes.

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1 Q Do you remember who the offer for
2 \$13.50 was for examination gloves from?

3 A So as I said before, to the best of my memory,
4 and to the best of my knowledge, this whole
5 conversation first to an offer that I got from
6 AMCM -- actually, not an offer that I got from
7 them, it, it's a favor that they asked me if I can
8 help them sell these gloves, and I offer it to Rock
9 Fintek, and they end up declining this offer, and I
10 never end up doing anything, didn't sell it. I
11 never owned that gloves. I never received it, and
12 I never sold.

13 It was just a matter of a conversation trying
14 to make a deal, and this is him showing --
15 refreshing more of a memory, that this is what it's
16 referring to.

17 But it says here that inspection report states
18 that these gloves are examination gloves, and I
19 don't remember how he got that information. Was it
20 verbally or by E-mail or by some kind of letter,
21 but at that time, Medcare claimed that they have a
22 problem exporting PPE out of their, out of China
23 due to the government limitations.

24 But they were trying to find all different
25 ways how to get it out, and one of the ways was to

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1 label it protection to, you know, as a cover-up, it
2 shouldn't show that this is medical equipment to
3 get it out of China, and they at one point, I have
4 seen a letter signed by the owners of Medcare
5 stating, confirming that.

6 And this is probably referring to the same
7 matter, that this, that the inspection report is
8 stating that these are examination gloves and just
9 the boxes that doesn't say.

10 **Q So let's just focus a little more on my**
11 **questions.**

12 A So, again, if you don't mind, just a reminder,
13 we are discussing here something that never
14 happened. We agree?

15 **Q So, again, I'm going to ask you the**
16 **questions, and then we will get this a little bit**
17 **faster. I'm certainly not agreeing with you, but**
18 **that's okay.**

19 A So I'm stating, you don't have to agree, but
20 I'm stating we are discussing here a matter that
21 never happened.

22 It was just an offer that I offered to Rock
23 Fintek. They have not accepted it. Maybe I tried
24 to a few times, and that's it. That is the end of
25 that story. It was never -- this deal was never

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1 done.

2 Q So I think we can agree on portions of
3 this. We can agree that Rock Fintek said no to
4 protection, to boxes labeled protection gloves. Do
5 we agree on that?

6 A It seems so. This is what it says there.

7 Q Yeah, and let's break it down a little
8 more because there is a chat here where Mr. Kato
9 writes at 7:58 p.m. on the 6th that we would take
10 those other ones at 10.50 a box and 12.50 for the
11 correct ones, and "correct" is in all caps. Do you
12 see that?

13 A Yes.

14 Q And you respond:

15 "For \$13.50, we've got OTG in New York,
16 approximately, 250 K that you get immediately and
17 probably another 150 K in LA, that is immediately
18 available for next day pickup."

19 Do you see that?

20 A Yes.

21 Q And the \$13.50 you were referring to
22 now the examination gloves, the ones that are
23 labeled examination; correct?

24 A Correct.

25 Q Okay. And at 8:30 p.m. we are now at

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1 the top of page five. Mr. Kato writes:

2 "You can sell to the other customer. We are
3 not buying at that price"; correct?

4 A Correct.

5 Q You respond, "It's a pleasure following
6 up with business people like you."

7 This is now on the next day. You write:

8 "I just got off the phone with my people at
9 Adorama. Here is the outline of the deal they
10 proposed. Your desired price is \$11 per box of 100
11 gloves. In order to facilitate this price, minimum
12 order quantity is 2 million boxes."

13 Do you see that?

14 A Yes.

15 Q Okay. So when you say you just got off
16 the phone with my people at Adorama, who are you
17 referring to?

18 A Kitchen Winners.

19 Q Okay. And who specifically do you
20 recall being on the phone with?

21 A Uh, I don't recall, but it's -- it would be
22 either Joel Levkowitz or Hershel Weiner. I have no
23 other contact at that time.

24 Q Did you have an understanding of Joel
25 Levkowitz' position or role with either Kitchen

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1 **Winners or Adorama?**

2 A So I can't confirm something that I'm not
3 personally involved with, but my understanding is
4 you asking is that Joel Levkowitz is a person on
5 his own, not a party or some kind of partnership in
6 Kitchen Winners or Adorama, but he's working on a
7 certain -- I don't know what the deal was, but he
8 made a deal with, either with Kitchen Winners or
9 with Adorama or maybe with both, and somehow they
10 work together.

11 I don't know if this is a commission base. If
12 he was a salesperson or an inside employee or
13 whatever the deal was, I don't know.

14 **Q In any event, this April 7th message,**
15 **you don't write Kitchen Winners. You write my**
16 **people at Adorama; correct?**

17 A Correct, but this is referring to previous
18 either message or phone call with Rock Fintek for
19 where they were referring that they are in talking,
20 in that they are in talking terms with Adorama
21 about the deal.

22 So this is how the name Adorama came up
23 because I was just following up on their
24 conversation.

25 **Q Well, did you ever tell Mr. Kato or Mr.**

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1 Gilling, hey, it's not Adorama, it's Kitchen
2 Winners, that we're dealing with. Did you ever
3 correct them, if you thought they were wrong?

4 A I don't recall going into that conversation
5 about this detail, but this didn't really matter to
6 me at all.

7 Uh, it doesn't really, I mean, change anything
8 from my perspective. So let them call whatever
9 they like.

10 If they call them Adorama people, let them
11 call them Adorama people. Who cares. It's not a
12 contract. It's not something that is relating to
13 me.

14 For me, it's just a matter of how many gloves
15 I would be able to sell or broker a deal between me
16 and Kitchen Winners.

17 Q Okay. If you go to the bottom of page
18 five, I direct your attention to your message at
19 2:30 p.m. on the 7th of April 2021. You write:

20 "Also, by any chance, can I send you a sample
21 of the protection gloves, and you'll get me any
22 offer on it. Please keep in mind it's just a
23 cosmetic issue of packaging."

24 Do you see that?

25 A Yes.

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1 Q Okay. So you're still trying to sell
2 protection gloves to Rock Fintek; correct?

3 A It seems like, but to the best of my memory,
4 as you presented before, he gave me some kind of
5 offer of 10.50. So this was not a really a closed
6 door at that time. So I tried again, yes.

7 Remember, at that time everyone was, we're
8 looking for gloves, and they were also begging for
9 more gloves to, to fill their obligation to their
10 customer.

11 And we tried all different scenarios. I tried
12 from my stock. We tried to make a deal with
13 Kitchen Winners. I even tried third-party that I
14 never end up dealing with.

15 So since it was so eager to get some gloves, I
16 mentioned again it, maybe use this, and as I said
17 before, at the end of day, later on, not much
18 later, like a few weeks later, they actually took a
19 few containers, four containers protection gloves
20 from Kitchen Winners, which was, by the way, a
21 totally different stock, totally different
22 inventory.

23 This was not the same protection gloves that I
24 offered to give them through AMCM, and just to be
25 clear, AMCM and Kitchen Winners, they were both

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1 competition. So there is no way these two wasn't
2 working together, but at the end of the day, they
3 actually took -- when they were really starved to
4 get some gloves, they actually took four containers
5 of protection gloves, and they confirmed it's okay.

6 Q Well, and this is four containers from
7 Kitchen Winners that you described earlier?

8 A Correct.

9 Q And the only source of your -- the only
10 information that you have on which you base this
11 testimony is what Mr. Weiner told you; correct?

12 A Correct, but Mr. Weiner is an honest guy. I
13 trust him.

14 Q Okay. And the gloves that you're --
15 the protection gloves that you're referring to in
16 your 2:30 p.m. April 7th message, you already had
17 those gloves in your possession; correct?

18 A Which gloves?

19 MR. FRISCH: Objection.

20 Q The protection gloves.

21 A No.

22 Q So what do you -- how are you offering
23 to sell them something that you don't have?

24 MR. FRISCH: Objections. I think he
25 testified to this like seven times already.

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1 **Q Go ahead.**

2 A It is not my stock. This was owned by CM --
3 AMCM, I'm sorry. They had that stock on the
4 ground, and they offered me to send a sample on my
5 behalf or to send it to me or to them on my behalf
6 as a sample, but this was not my stock, and I never
7 opened that, and I never end up getting it.

8 **Q Okay. And in any event, at 7:15 p.m.,**
9 **Mr. Kato writes:**

10 **"Hello, Joel. We purchased other gloves. We**
11 **tried to work with you. We're all set."**

12 **Do you see that?**

13 A Yes. Yes. So this, as you see, he never end
14 up taking these gloves, and if I am not mistaken,
15 these other gloves might be some from Kitchen
16 Winners and might be from other third parties,
17 which we know for a fact they got gloves from other
18 third parties. Medcare gloves they got from other
19 third parties.

20 **Q What do you even know about that?**

21 A I know that for a fact.

22 **Q Well, what fact do you know?**

23 A I have to go back to that time to figure out
24 how I got that information, but at that time, I
25 remember I got somehow confirmed either by

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1 themselves or by a seller that sold to Rock Fintek
2 Medcare gloves.

3 Q So it's your testimony, all right, I
4 need to know everything that you remember about
5 you're telling us under oath right now that you
6 know for a fact that Rock Fintek got Medcare gloves
7 from someone other than you or Kitchen Winners and
8 Adorama?

9 MR. FRISCH: Objection.

10 A Yes, to the best of my memory, and to the best
11 of my knowledge, I remember at that time, I don't
12 remember now who gave that information to me, but
13 at that time, I was informed that they are getting
14 Medcare gloves from other bodies.

15 You know what, might even Brad told it to me
16 at one time that they got from someone else.

17 Q And who are those other parties from
18 whom Rock Fintek got gloves?

19 A I don't remember any name. I just remember a
20 fact.

21 Q Were you involved, were you involved in
22 any such transactions?

23 A No, not at all.

24 Q Have you ever seen any documents
25 reflecting Rock Fintek getting gloves from anyone

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1 other than you or Kitchen Winners?

2 A No.

3 Q So let's jump to top of page -- the
4 very bottom of page eight of Exhibit 17, and I'll
5 direct your attention to April 16th.

6 A Which page?

7 Q Page seven. It has number seven at the
8 bottom, and it says --

9 A Okay.

10 Q I will ask you first about a message at
11 12:25, starting at 12:25 p.m. and on April 16th.

12 A Okay.

13 Q Okay. Once you get there, let me know.
14 You write:

15 "Good afternoon. I'm sorry I got a serious
16 problem here. I'll follow-up in a few."

17 Do you remember what that serious problem was?

18 A I can imagine, yes.

19 Q Well, not imagine. What do you
20 remember?

21 A If this is referring to what rings a bell, uh,
22 I sold some containers to Rock Fintek at the same
23 time Rock Fintek got into a contract with Kitchen
24 Winners. Again, the same Medicare gloves.

25 And this automatically created an -- I don't

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1 know the exact the right wording for that -- but
2 we -- before I was like a customer from Kitchen
3 Winners, and suddenly I became like a competition,
4 who is selling to Rock Fintek.

5 And as mentioned before, I -- the inventory,
6 the goods that I purchased from Kitchen Winners, I
7 had partners, these names mentioned before, Joel
8 Levkowitz, David Ruben, Jay Masry, and everyone had
9 their own mission in their mind.

10 My partners at that time didn't want me to
11 sell anything to Rock Fintek. My partners didn't
12 want me to sell anything to Rock Fintek at that
13 time. They want to let Kitchen Winners sell first
14 until he's done, and then we'll follow-up.

15 **Q Why? Why did your partners not want**
16 **you to sell to Rock Fintek but to have Kitchen**
17 **Winners sell the same inventory?**

18 A Uh, this is too much of details. In a
19 nutshell, I have to go back and look up all the
20 details, but and if you want me to give it to you
21 in a nutshell, basically, it was related to the
22 side agreement and to certain credits they were
23 trying to get back from Kitchen Winners, and in
24 order to get it, they wanted to be in a good
25 relation with Kitchen Winners.

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1 So let him go first. Let him sell his stock
2 first, and then we will come in and sell it.

3 **Q Which of your partners said this and**
4 **when?**

5 A So the times, around that time, that day, as
6 you see I have, as it seems from this messages, I
7 have prepared to sell -- I don't remember how much.
8 Does it say here how much? I don't know.

9 But, let's say, one or two or three
10 containers, whatever it is, I was prepared to sell
11 to Rock Fintek and I got this sudden stop. They
12 asked me to put it on hold.

13 So what time it was, I don't know what day it
14 was. It was that day, I mean, April 16, this is
15 when this conversation happened.

16 So somehow, somewhere between the morning
17 until that time before I send the message, I got a,
18 like a hard shortstop, and I -- that's why I send
19 them the message that I have a problem here.

20 It was an internal problem between my partners
21 that I had to work out before I can continue on
22 this end.

23 **Q So which of your partners told you that**
24 **Kitchen Winners should sell to Rock Fintek and not**
25 **you?**

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1 A Uh, there was all three together. I mean, we
2 are all dealing, we're all working like a team.

3 These four people. So you want to pick a
4 name. I don't remember. One of the three names
5 should it be Joe Levkowitz, should it be David
6 Ruben, should it be Jay Masry or Joel Masry.

7 Q But you don't remember which one?

8 A No.

9 Q And you see here on the top of page
10 eight, you write:

11 "I'll have one of my partners calling you
12 now."

13 And then you say: "I'm really sorry. I'm in
14 a situation here that I can't really describe."

15 And then Mr. Kato asks: "Who, Bernie?"

16 And you respond, "No, David Ruben."

17 Do you see that?

18 A Okay.

19 Q Does that refresh your recollection as
20 to which of your partners told you that Kitchen
21 Winners had --

22 A No, and I don't know what it makes a
23 difference who actually said it, but I ask -- but
24 this refresh my memory, that I asked David Ruben to
25 please call up one of these guys at Rock Fintek and

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1 explain them that it's not me that have changed my
2 mind just because I got in a bad mood. It's a
3 matter that I'm unable to actually sell it until
4 this is being worked out and between us.

5 Q Okay. So just to summarize, am I
6 correct in understanding that -- sorry.

7 So am I correct that you had agreed to sell
8 certain number of gloves to Rock Fintek, but then
9 your partners did not want you to sell those gloves
10 to Rock Fintek, but instead sold those gloves to
11 Kitchen Winners so you were no longer able to
12 fulfill an order to Rock Fintek; is that what this
13 April 16, 2021, exchange reflects, generally?

14 A It seems like, yes.

15 Q Okay. And then later on the 16th at
16 1:58 p.m. you write that:

17 "If you want to take some of my goods in LA,
18 we can talk about it. Thank God, I don't have any
19 partners there."

20 Do you see that?

21 A Yes.

22 Q And that refers to the gloves that you
23 were purchasing from AMCM that you had in your LA
24 warehouse; correct?

25 A Right.

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1 Q And then you wrote on April 16th at
2 2:01 p.m.:

3 "And please, please, don't share our
4 conversation with anyone because you will cause
5 damage to our relationships all around. Please
6 confirm."

7 Do you see that?

8 A Yes.

9 Q Okay. What are you referring to there?

10 A If my partners will find out that I went
11 behind their back and sell anything to Rock Fintek,
12 even though it's not their stock, but I sell any
13 goods to Rock Fintek, they would be mad at me why
14 I, why I crossed them out.

15 MR. RAKHUNOV: Okay. Hang on a second.
16 I'm just trying to find an exhibit. Unfortunately,
17 a few exhibits from Friday didn't fully make it
18 over into today's database. So I just need to
19 reload it. Give me a moment. Let's take a
20 five-minute break.

21 (Whereupon, a recess is taken at 12:32
22 p.m.)

23 (Whereupon, the record commenced at
24 12:45 p.m.)

25 MR. RAKHUNOV: Back on the record.

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1 Q Mr. Stern, so we were just talking
2 about before the break, your chats on April 16th
3 with Rock Fintek.

4 If I may direct your attention, let's jump to
5 page 9 of Exhibit 17.

6 A Okay.

7 Q And this is still April 16th, a little
8 bit later in the afternoon. You see at 4:19 p.m.
9 Mr. Kato writes, "Joel, we are trusting you."

10 Do you see that, in the middle of the page?

11 A Yes.

12 Q Do you know what Mr. Kato is referring
13 to or what -- strike that.

14 What did you understand Mr. Kato to be
15 referring to when he wrote that we are trusting
16 you?

17 A As far as I remember, they were about to buy a
18 million dollars to someone they never met, and only
19 as far as I remember, the explanation was the trust
20 comes in here is they were dealing with a person
21 that they never met before and not from the same
22 community, not even the same state. They were in
23 Florida. I'm in New York.

24 And as you see, we're coming from different
25 cultures, and they are going to send me a million

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1 dollars before getting anything.

2 So there is some trust involved there.

3 So we had dealt before, as I told you before,
4 I told them in February, I sold them some in April.
5 Actually, as far as I remember, this was the first
6 day in April.

7 So they actually just know me from what they
8 got from me in February and a nice bunch of
9 conversations. Some of them is in WhatsApp chat
10 and some was verbally over the phone and conference
11 calls.

12 Communicating back and forth, but in reality,
13 other than the three containers they took from me
14 in February, they never met me, and they never know
15 me before, but they are going to send me a million
16 dollars to get goods.

17 There is some trust involved. So this is what
18 they're writing they trust me they are going to get
19 their goods, and they got it.

20 Q And then two minutes later Brad
21 responds:

22 "Joel need invoices also need breakdown for
23 Alex at Dimerco," D-I-M-E-R-C-O.

24 And then Brad writes:

25 "Can he call Jerry now?"

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1 **Do you see that?**

2 A Right.

3 **Q So do you know who Jerry is?**

4 A No, Jerry is not someone I was involved with.

5 This is, since this a group chat between Tommy,

6 Brad, and me, Tommy and Brad my understanding was

7 not always in the same office. So he uses a group.

8 Meanwhile to send him a message that is

9 relating to this shipment, pickup, whatever it is,

10 but it's relating to me, he needed an invoice, a

11 breakdown of what he's picking up.

12 Alex was the trucker guy. I don't know who,

13 he's a driver or owner or broker, whatever it is,

14 but he is arranging the trucking.

15 And Dimerco as far as my understanding, it was

16 one of the trucking companies they're using. You

17 can correct me if I'm wrong, and Jerry is someone

18 and tell me that I have no idea who he is and what

19 he is stands for, if he's with customer. I

20 don't --

21 **Q Okay. So but as far as you're**

22 **concerned, you're being asked for an invoice, and**

23 **you're being asked for a breakdown of the gloves;**

24 **correct?**

25 A Correct, and a breakdown means the size, mix,

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1 what I have.

2 Q Okay.

3 A Large, small, medium, extra large.

4 Q All right. And if you go a couple of
5 lines down, do you see it says, "Attached
6 00000232-photo-2021-04-16-16-25-12.jpeg. Do you
7 see that?

8 A Yes.

9 Q That's an attachment that you sent of a
10 photograph; correct?

11 A This is what it says.

12 Q Okay. So go to Stern-20, please, which
13 is the attachment referenced in this chat box from
14 the produced WhatsApp conversation.

15 A Okay.

16 Q Let me know when you have it open.

17 A Okay. I have in front of me.

18 Q Okay. Is that the breakdown that you
19 sent to Rock Fintek of the gloves on April 16,
20 2021?

21 A Seems like.

22 Q And can you tell what this is a screen
23 shot of? Is this a screen shot of your phone or
24 something else? What is this picture?

25 A This looks to me that I have compiled this

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1 information in a Excel file. I have, I am not even
2 sure if this was ever saved, but calculated in a
3 Excel file, and then copy and paste a snapshot of
4 this portion of Excel.

5 Q Okay. And looking at this breakdown,
6 can you just explain to us what each of the columns
7 and dates and numbers means in this document?

8 A What is your understanding, if I may ask?

9 Q Well, I'm not being deposed here, sir.

10 A Oh, I'm sorry. So the first line, actually,
11 the second line, the first line is dates. The
12 second line is container numbers, at that time that
13 was used for this stock, and, and as I explained on
14 Friday, a container number is not necessarily means
15 that the goods is coming out of this container
16 originally.

17 It's rather like a shelf label that these
18 pallets was put together under this container
19 number, and then you have, I guess, I'm missing
20 something here to the left.

21 It should be sizes of small, medium, large,
22 and extra large, lines one through four. Doesn't
23 show on this snapshot, but this is what it's
24 supposed to be, and count is how many small, how
25 many medium, how many large, how many extra large,

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1 and at the bottom, you have a total.

2 So the first column on the left, container
3 number starting MEDU 7201798 has a total of 459
4 probably cartons, and the first line is zero. The
5 second line is 60. The third line is zero. And
6 then the last line is 399.

7 If I'm correct, I mean, it doesn't say here
8 but if my memory is correct, the first line is
9 small, medium, large, extra large is the way it
10 should go, and this is the first container number.

11 Second container number starting TRHU 7077889,
12 small 220, medium 1,200, large 1,200, extra large
13 220, a total of 2,840.

14 **Q So let me stop you there. Let me stop**
15 **you there. So let's just look at the April 7th**
16 **column.**

17 **So the date, is that the date that the, that**
18 **the gloves were received by you at the warehouse,**
19 **April 7th?**

20 **A** It should be the data arrival or the date it
21 arrives at the warehouse. I am not sure what date
22 it represents, but one of the dates, either arrived
23 in the United States ground or to the warehouse,
24 something like it.

25 **Q Okay. So on April 7th, then container**

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1 TRHU 7077889 either arrived at the warehouse or to
2 the United States on the ground, and it had the
3 breakdown of sizes, as you just described for us;
4 correct?

5 A Correct.

6 Q And you're telling Rock Fintek in this
7 picture that these will be the gloves that will be
8 delivered, sold to Rock Fintek for a total of
9 9,000 cartons or 90,000 boxes; correct?

10 A Correct.

11 Q You're providing that information so
12 Rock Fintek can arrange their own logistics for
13 this, for this transaction; correct?

14 A The truth of the matter is that this
15 information is, was not provided to Rock Fintek,
16 uh, because they asked for it.

17 They, Rock Fintek only asked for the last
18 column, total of small, medium, large, extra large,
19 a total of 9,000 cases.

20 The last column it represents a total of the
21 sizes, small, medium, large, extra large, and the
22 subtotal of 9,000 cartons or 90,000 boxes, showing
23 the total in how much they are getting, and also
24 the percentage of the size mix, which came out in
25 this case to what they call at that time 12, 35,

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1 43, 10. 12 percent small, 35 percent large,
2 43 percent medium, and 10 percent extra large.

3 The details behind was just communicated to me
4 in the warehouse what they have available, what
5 sizes, and how they fulfill this order. Go ahead.

6 Q So the information about the container
7 numbers and the specifics, the first four columns,
8 not the totals on the right, that information was
9 given to you by the warehouse; correct?

10 A Uh, I'm not sure who created this. Could be
11 myself. It could be the warehouse, but between me
12 and the warehouse this was done. This was created
13 that these are the boxes they should be getting.

14 Q And as you say in your WhatsApp
15 message, the invoice if you look at the 4:24 p.m.
16 line, the invoice you just sent by E-mail; correct?

17 A Yes.

18 Q So if you look at in the middle of page
19 10, at --

20 A Okay.

21 Q -- on April 21 at 8:13 p.m.

22 A Okay.

23 Q Do you see right, "Can I possibly get a
24 PO direct from a hospital?" Do you see that?

25 A Yes.

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1 Q What are you referring to there?

2 A It's stated correct. Uh, it's state, it's
3 stated exactly what it says. I'm asking if I can
4 get a PO directly from a hospital.

5 Q Why?

6 A Might be multiple reasons. One of the reasons
7 might be, uh, look, again, as I said before, I
8 didn't read the whole conversations in the last
9 couple of days. It was a long time ago, like over
10 two years ago, and I don't remember all the
11 details, but as a matter of fact, one of the ways I
12 was trying to service and help Rock Fintek to
13 fulfill their contract, he gave me a lot of
14 personal information that he has a problem with a
15 different supplier that he gave a deposit overseas
16 a couple of million dollars and was not there, and
17 he has a cash flow issue, and he has to supply
18 customer a million or 2 million boxes of glove for
19 a certain timeline and how he can make it work, and
20 a lot, a lot of details that is not mentioned here.

21 Everything was done over the phone, and one of
22 the ideas I was trying to be creative and help Rock
23 Fintek get this done was through a credit insurance
24 company that they will procure the payment of the
25 goods, as long I would think everything will be

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1 within terms. Terms, whatever was committed
2 between the buyer and the seller, what if it was
3 delivered correctly, then the customer has to pay
4 and in the event the customer doesn't pay, the
5 insurance company will come in and cover through
6 their whatever way they working.

7 And in order to get such a coverage of a few
8 million, we are talking about millions of dollars
9 here. Look, at that time they were paying over 10
10 dollars a box. Just quick calculation, they were
11 looking for a million boxes of gloves, you're
12 already over 10 million dollars.

13 A straightforward insurance company, when I
14 come by a policy who are -- I'm nowhere. I mean, I
15 was a new entity with no credit history, and Rock
16 Fintek also didn't have credit history at that
17 time. They were lacking credit.

18 So we are trying to figure out a way how to
19 get them approved. One of my ideas was if they can
20 get me a PO directly from a hospital, the hospital
21 is credit worthiness and the insurance company will
22 approve credit based on their client -- I'm
23 sorry -- on their customer, the hospital. Is that
24 good enough for you?

25 Q It's whatever your testimony is. So

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1 let me, so how did you know that Rock Fintek was
2 selling these gloves to hospitals?

3 A I didn't know. I just figured that who is
4 buying PPE at that time, either a hospital or a
5 nursing home or other healthcare facility.

6 I mean, who else could be buying that large
7 quantity? For example, the New York City, I've
8 sold on my own, and they were also buying some
9 gloves but not that much, and other authorities,
10 like police department, fire department, who else?
11 They're always using some of the gloves, but not to
12 that extent.

13 The only facility that was using like this,
14 like tissue paper, toilet paper was hospitals,
15 nursing homes. Every minute they're using new
16 gloves, and especially during the pandemic when
17 everyone was so scared they shouldn't, they
18 shouldn't be contagious. They were literally
19 dropping gloves into the garbage every few minutes.

20 Q So you knew that the gloves were going,
21 you knew the gloves were going to hospitals?

22 A I didn't knew, but I figured that it goes
23 either to a hospital or to a nursing home or to a
24 similar facility.

25 That's why I asked them if that is a

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1 possibility to get a PO directly from a hospital.

2 As you see, I'm not saying from the hospital or
3 from your client.

4 Q So do you know who someone named Judy
5 Robert is?

6 A Not at all. So far it doesn't ring a bell.
7 Is it stating the name somewhere?

8 Q Well, let's jump to page 12, page 12 of
9 the Exhibit 17.

10 So this is now an April 22nd, and it looks
11 like at the top around 1:30 on that day, Mr. Kato
12 is asking you for another container of gloves and
13 to start the process; correct?

14 A Okay.

15 Q Do you see just a couple of hours after
16 that you send contact information for Eli Wiener,
17 E-L-I, W-I-E-N-E-R to Mr. Kato?

18 A Yes.

19 Q Who is Eli Wiener?

20 A So, first of all, Eli Wiener and Hershel
21 Weiner is not even related and didn't know each
22 other. Eli Wiener is someone I know from one of
23 the business I work before. He's a broker for a
24 credit insurance agency.

25 Q Why were you sending his contact

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1 **information to Mr. Kato and Mr. Gilling?**

2 A Because, uh, the name of Rock Fintek or the
3 personal name of Tom Kato didn't, wasn't approved
4 for credit, and we trying to make it work.

5 So they were asking for financial information,
6 which is not something that I supposed to get
7 involved with. So I connected Rock Fintek directly
8 with Eli Wiener, he should supply whatever
9 financial information they needed to try to get
10 them approved.

11 Q All right. And then a little bit later
12 that day at 7:18 p.m., you write:

13 "While we speak, I'm starting to load a load
14 of 1.5 million boxes," and you write, "I can
15 reserve it for you if you commit to take it."

16 Do you see that?

17 A Yes.

18 Q And then about 20 minutes later, you
19 send another document called, "Declaration for
20 boxes." Do you remember what that document is?

21 A No.

22 Q Okay. Let's take a look then at, let's
23 hope it's in there by now. All right. Give me a
24 second.

25 A I need a break for just a minute. Someone is

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1 trying to call me. Just a minute.

2 **Q Sure.**

3 MR. RAKHUNOV: Off the record.

4 (Whereupon, a discussion is held off
5 the record at 12:05 p.m.)

6 (Whereupon, the record commenced at
7 12:07 p.m.)

8 MR. RAKHUNOV: Back on the record.

9 **Q Please go to what's been marked as**
10 **Stern-21, and for the record, Stern-21 is the**
11 **document that --**

12 MR. FRISCH: It's telling me I can't
13 open up Stern-21.

14 MR. RAKHUNOV: That's annoying. So
15 it's, as you can possibly see, if you go back to
16 the chat, it's a Word document.

17 Oh, I see it is not. So it won't
18 let -- so you can download it if you -- yeah, if
19 you download it, then you'll actually be able to
20 open it in your whatever word browser.

21 If you give me a minute, I can convert
22 it to PDF, but I don't want to manipulate exhibits.
23 It's a Word document.

24 **Q Are you able to download it, Mr. Stern,**
25 **because if not --**

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1 A I'm trying to. Give me a minute. I am going
2 to the three small dots. Okay. I got it open.

3 Q You got it open. Great.

4 MR. RAKHUNOV: Let me know when you're
5 ready to go, Counsel.

6 MR. FRISCH: Yeah, I'm ready. It's
7 open.

8 Q So Exhibit 21 is a Word document that
9 you sent to Mr. Kato and Mr. Gilling. It's titled,
10 "Declaration for boxes." Do you recognize this
11 document?

12 A This seems to me the same E-mail that was
13 brought up before, today. This a copy. This is a
14 copy of that E-mail that was brought up before.

15 Q What E-mail are you talking about?

16 A You were asking me what was the problem with
17 the boxes and -- what was the problem with the
18 size, mix, and the boxes, who repackaged them, who
19 sort them, and where was it done, and who did it,
20 and this question was asked before.

21 Q Sir, do you have a Word document before
22 you that appears to have a Grinvald Technologies
23 Dong Guan letterhead on it. I want to make sure we
24 are looking at the same thing. Stern-21.

25 A Let me double check what I have up there.

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1 MR. RAKHUNOV: Just so you know, Avi,
2 it says here you're viewing -- oh, there it is.
3 Okay.

4 MR. FRISCH: I just put it up on screen
5 shot. That way we know we are looking at the same
6 thing.

7 A Okay. Now I made a mistake. I'm sorry. I
8 opened a different one.

9 Now I have it on the screen, and it's also up
10 on my computer on the same. Okay. Okay. Go
11 ahead.

12 Q Okay. You have it open?

13 A First, I see it on the screen, and then check
14 if it's loaded. I have it on the screen. You want
15 me to load it on my computer?

16 Q As long as you can see it, well, I
17 don't care.

18 A Yes, I can see it.

19 Q Do you recognize this Word document
20 that you sent to Rock Fintek on April 22nd?

21 A Yes.

22 Q Okay. What is this? I don't know if
23 you can -- I don't know if you can -- so the way I
24 see it on my screen, you wouldn't be able to read
25 it. It's very small.

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1 So I don't know what you're seeing, but I do
2 want you to take a close look at the document. So
3 if that means downloading it, please do that.

4 A You want me to read it so the recorder can --

5 Q Well, I don't want you to read it out
6 loud. I want you to read it to yourself right now
7 and tell me if you recognize this document and what
8 it is.

9 A This seems to relate either to the same case
10 or the similar case that was discussed a few times
11 before.

12 You asked me about the boxes, protection,
13 about the offer that was declined to not accept it,
14 and as you see as a matter of fact, this document
15 is addressed to AMCM. Grinvald Technologies is the
16 owner of Medcare. The owner of Medcare as far as I
17 remember is Ana Grinvald. That's a personal name,
18 and the owner of Medcare -- Medcare is brand name,
19 not a company.

20 The owner of that brand is Ana Grinvald. Ana,
21 A-N-A, Grinvald spelled in this letter it
22 G-R-I-N-V-A-L-D, Ana Grinvald is the owner of the
23 brand Medcare. She organized a few different
24 entities for different reasons.

25 I'm not so sure what each of them is

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1 representing, but one of them is Grinvald
2 Technologies. Another one is GTS Global Tooling
3 Systems, and I remember there was more than that.
4 I just don't remember all the names, and each and
5 every entity had their purpose what this was used
6 for, but mainly the gloves received was coming
7 through GTS, as far as I know. Maybe I'm wrong.

8 Because I never actually buy direct from
9 Medcare. It's Kitchen Winners or AMCM, and this is
10 a letter from the owners of Medcare under the
11 company named Grinvald Technologies stating that
12 the gloves labeled as protection gloves are
13 actually the same quality as the examination
14 gloves, and it's actually exactly the same gloves.

15 Just for their internal issues in the factory,
16 it doesn't state in the letter what the issues was,
17 but as I said before, they told me that the main
18 issue was exporting from China PPE, which is
19 Personal Protective Equipment.

20 They had a problem with the government, trying
21 to control any medical equipment going out of the
22 country of China. So, therefore, to cover-up and
23 get it out of China, they package it in different
24 boxes so it should go through their customs or
25 whatever.

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1 But this letter is affirming stating that the
2 Medcare Nitrile synthetic -- nitrile protection
3 gloves are the same as those labeled as Medcare
4 Nitrile synthetic thick examination gloves.

5 The only difference between the two is the
6 packaging due to the internal issues in the
7 factory, the boxes were wrongly printed.

8 Q Okay. Which is different from what you
9 understood, as you testified previously and a
10 moment ago?

11 A Uh, not sure what I said is different, but if
12 this is your understanding, I respect your
13 understanding.

14 Q Who is Motty Hershkovitz; do you know?

15 A He is one of the people working for AMCM.

16 Q And where did you get this Word
17 document?

18 A From one of the people at AMCM. I an not, I
19 am not sure was it Motty Hershkovitz, M-O-T-T-Y,
20 H-E-R-S-H-K-O-V-I-T-Z, his name is listed in this
21 letter.

22 I'm not sure if I got it from them or from
23 someone else, but I got it from AMCM, not something
24 that I have created or got it directly on my own.

25 Q So you didn't create this document?

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1 A No. No, I'm not, I'm not that creative. I'm
2 creative a little bit but not that much.

3 Q And why did you send this document in
4 WhatsApp to Rock Fintek on April 22, 2021?

5 A The first -- let me give a look in the
6 messages.

7 Q You can go back. We can close this and
8 go back to the chat in Exhibit 17.

9 A So one of the reasons before I go back is just
10 to prove that on the previous conversations that
11 these protection gloves are the same as examination
12 gloves and trying, again, once more to push a deal,
13 but let me see where, what was before that. Uh,
14 which page are we?

15 Q We are at the bottom of page 12.

16 A Twelve. Thank you. Just go back there. By
17 the way, if you go back to the previous page. What
18 is this page? Eleven. I guess it's starting on
19 page 10, somewhere you can see between the lines
20 they were begging me to get them more gloves and
21 try to get gloves throughout a deposit up front and
22 then I tried to offer 25 percent deposit, and this
23 is in the same time we were trying to work out with
24 the insurance credit and look what they writing
25 here, Joel --

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1 Q Mr. Stern, this is going to go a lot
2 faster if you focus on my questions, please.

3 A So to the best of my knowledge, going back and
4 forth on these two pages, I guess this is a
5 follow-up on the previous offer that was so far
6 declined, and I tried to once more to push to if
7 they would be willing to accept the gloves with the
8 boxes saying protection gloves.

9 Q And Mr. Gilling again said don't have
10 approval for the mismarked boxes; correct?

11 A Correct.

12 Q And Mr. Kato then followed up, "Right
13 now we're more focused on fulfilling our current
14 orders"; correct?

15 A Correct.

16 Q And that is referring to examination
17 gloves; correct?

18 A Correct.

19 Q So and looking at the document that we
20 looked at a moment ago with the declaration, does
21 that in any way refresh your recollection as to who
22 Judy Robert is?

23 A No. Where do you see Judy Robert here?

24 Q I'm just asking if that in any way
25 refreshes your recollection as to that name?

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1 A No, so far I don't remember anything about
2 Judy Robert. If -- please, look, we had an
3 attorney, uh, a law firm before that was
4 representing AMCM. Is it possible part of their
5 team? I don't remember. Just don't remember, I'm
6 sorry.

7 Q You don't remember if she was somebody
8 affiliated with Motty HersHKovitz and AMCM?

9 MR. FRISCH: Asked and answered like 10
10 times.

11 A Look, I don't remember. I'm not saying I, I
12 didn't know at that time, but at this, years later,
13 I mean, could be I heard the name once or twice
14 but, you know, how many names and how many people I
15 been dealing with trying to make a deal, I have no
16 idea what this is.

17 Do you have anything sample or like a document
18 or E-mail to bring up with this Judy Robert?

19 Q We're fine. All right. Can you go
20 down to -- hang on a second. Go down to the very
21 top of page 17 of this chat, and I'll direct your
22 attention to April 30, 2021, at 11:04 a.m., you
23 write:

24 "I'm sorry to ask, but please confirm Adorama
25 as being taken care of because I can't compete with

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1 him. Thanks."

2 Do you see I am that?

3 A Yes.

4 Q What were you referring to there when
5 you asking if Adorama was being taken care of?

6 A I guess being paid. I don't know. I don't
7 remember.

8 Q Do you know, you don't remember what
9 you meant when you said you can't compete with him?

10 A Look, uh, just this line has two questions to
11 me. That trying to refresh my memory, number one,
12 what is involved for Adorama being taken care of.
13 Number two, what is involved, what is the
14 definition of I can't compete with them. Uh --

15 Q I'm asking what you remember about
16 making those statements. That's all.

17 A Well, let me try and go back to three lines
18 before. I mean, first, I must admit seems like you
19 really did a good job of going through this
20 information because this is a lot of information
21 going back two years. You did a great job.

22 Let me read a half page before. Let me try to
23 get a little refresher there.

24 Q What are you reviewing right now, and
25 we are not in the --

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1 A Page 16. This is where I was struggling
2 trying to get paid for my, what I delivered before,
3 and I tried to make a deal to offer them more goods
4 in order to get more payment up front.

5 In other words, if you pay me the old stuff,
6 I'll give you more credit, but I need payment for
7 the old stuff. I don't see --

8 Q Let me, again, my question was what you
9 meant when you said the statements about Adorama,
10 at the top of page 17?

11 A So first it looks now, turn to page 16 on the
12 last line, it says here that I am writing JNS
13 service writing to Rock Fintek:

14 "Please check with warehouse how many trucks
15 is needed for both pickups, JNS and Kitchen
16 Winners."

17 So it doesn't say anything before, but seems
18 like they were picking up from both of us at the
19 same time.

20 Let me go to the next page, page where this
21 page, page 17. Okay. And I ask him:

22 "Is your guy named Alex? Then ask him, "I'm
23 sorry to ask, but please confirm that Adorama is
24 being taken care of because I can't compete with
25 him." I'm sorry, I don't remember.

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1 Q Okay. That's fine. If that's your
2 answer, that is your answer. All right. Let's --

3 A One second. What is the next statement where
4 Tommy is answering me. Tommy is answering your
5 order has nothing to do with them. We have another
6 group that we will buy from in LA, Medicare gloves,
7 and other brands, if you are not interested in
8 continuing -- (inaudible.)

9 Q Joel, she can't see.

10 MR. FRISCH: She can't see the
11 attachment.

12 Q I am not interrupting you. You're
13 welcome to speak freely, even until I ask my
14 question, but I don't know if your attorney would
15 be pleased of that but --

16 A But Tommy Kato on April 30, 11:19 a.m. Tommy
17 Kato is writing your order has nothing to do with
18 them. We have another group that we will buy from
19 an LA, Medicare gloves and other brands, if you are
20 not interested in continuing.

21 So they ask me before how do I know that they
22 are buying Medicare gloves from other groups, look,
23 black and white.

24 Q Well, does it say he bought anything
25 from another group, or is he saying that we will if

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1 you are not interested in continuing?

2 A This says that we will, but I remember
3 100 percent clearly that at the end they end up
4 buying. If it says in the message it's not, I
5 don't remember, but they told me as a matter of
6 fact, we got gloves from other groups.

7 Q And, again, who told you this?

8 A Oh, so whatever we find the writing, you have
9 a name. If it's not a writing, it's either Tom or
10 Brad. I didn't have any other people from Rock
11 Fintek that I was talking with.

12 Q You don't actually know what Rock
13 Fintek bought from anyone other than from you;
14 correct?

15 MR. FRISCH: Objection.

16 A I can't prove anything because I don't have it
17 in backup writing or documents, but I have in my
18 memory, the same way as you ask me to testify many
19 other facts and figures that I remember, I remember
20 for 100 percent clearly sure that they end up
21 buying Medcare gloves from other parties other than
22 Kitchen Winners and myself, JNS Capital.

23 Q Okay. You're saying that is your
24 memory of what someone told you. You don't
25 actually know what Rock Fintek bought from anyone

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1 **other than from you?**

2 A I don't know details, but I know for a fact
3 that they actually got Medicare gloves. How many,
4 how much, how often, I don't know, but I know for a
5 fact that they got Medicare gloves through other
6 channels other than JNS and Kitchen Winners.

7 **Q From who?**

8 A I don't know the names.

9 **Q Okay. So you don't actually know?**

10 A No.

11 MR. FRISCH: Objection.

12 **Q So let's see. I think we're up to, I**
13 **was thinking out loud of what exact number we are**
14 **up to.**

15 MR. SPERBER: Excuse me, we're coming
16 up on I believe six hours of this whole thing, and
17 I just want to remind you that I do need that
18 45 minutes for my own questioning.

19 MR. RAKHUNOV: Yeah, I'm not sure that
20 I'm required to share my seven hours with an
21 adverse party. That is, that is not, I don't
22 think --

23 MR. SPERBER: My client is a party to
24 this action, and as I understand, you know, there
25 are only seven hours, plus, for us to ask questions

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1 in this concern, and I do need to make sure that I
2 have a chance at my questions.

3 MR. RAKHUNOV: I am not even close to
4 done, and I'm not going to get into an argument
5 with you on the record, but Mr. Stern has been
6 giving -- he's actually been very responsive, but
7 also giving a lot of non-responsive lengthy
8 answers.

9 So I have to keep going, and I do not
10 and never have actually read the rules as adverse
11 parties having to share in the seven hours. I
12 understand if we were, you know, co-defendants or
13 parties aligned in interest, that certainly would
14 apply but, you know, when you said you had
15 questions, I respect that but --

16 MR. SPERBER: I mean --

17 MR. RAKHUNOV: -- I don't have a
18 problem with that.

19 MR. SPERBER: We can go off the record
20 and have that conversation.

21 MR. RAKHUNOV: No, no, I think we
22 should have this on the record, but I think looking
23 at Rule 30, this is --

24 MR. SPERBER: And I mean --

25 MR. FRISCH: And for the record, you're

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1 taking up your time right now. We are leaving at
2 in seven hours.

3 MR. RAKHUNOV: Yeah, Avi, I am not the
4 one that, that said anything. I'm going to go --

5 MR. FRISCH: You can take that up with
6 the judge --

7 MR. RAKHUNOV: I'm going to go until
8 I'm done.

9 MR. SPERBER: I am going to start
10 talking in 15 minutes, and we can talk over one
11 another. You can deal with that with the court
12 reporter --

13 MR. RAKHUNOV: We are going to suspend
14 the deposition, Mr. Sperber, and go get some
15 guidance from the court.

16 MR. SPERBER: You are welcome to do
17 whatever you think you need to do.

18 MR. RAKHUNOV: You're not going to talk
19 over me. I am entitled to take my deposition.

20 MR. SPERBER: You're not entitled to
21 block me from asking questions. So, I'm sorry, but
22 that is what I am going to do.

23 MR. FRISCH: If we suspend the
24 deposition, you run the risk that my client will
25 not return.

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1 MR. RAKHUNOV: Yeah, that's not my
2 problem.

3 MR. FRISCH: It your problem --

4 MR. RAKHUNOV: How long have we been on
5 the record today? I just want to make sure that we
6 have an accurate number. Off the record.

7 (Whereupon, a discussion is held off
8 the record at 1:51 p.m.)

9 (Whereupon, the record commences at
10 1:51 p.m.)

11 MR. RAKHUNOV: We started at 10:30. We
12 have been going for less than three hours on the
13 record. Okay. I'm fine with continuing on.

14 MR. FRISCH: Phil, when you say on the
15 record that my client has been giving
16 non-responsive answers, he has been as responsive
17 as anybody can be. He has given lengthy answers
18 because he feels like that your open-ended poor
19 questions require lengthy answers, which they do.
20 If you want short answers, ask questions that --

21 MR. RAKHUNOV: I know you can't help
22 yourself, Avi, and that's fine. Your client has
23 been, I said he has been responsive, but he has
24 also provided narratives that were not responsive.

25 So he has given me answers. I'm not

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1 complaining that he's not giving me answers. I'm
2 just saying he's also supplemented those answers
3 with lengthy uncalled for explanations, but it is
4 what it is. I have no issue with your client's
5 testimony at the moment, but I have an issue that
6 I'm being interrupted.

7 **Q I put Stern-22 into the final exhibit**
8 **folder. Please pull it up when you get a chance.**

9 MR. RAKHUNOV: And, by the way,
10 Mr. Sperber, you have not cross-noticed this
11 deposition, if we are going to get technical. So
12 I'm going to keep going until I'm done.

13 MR. SPERBER: You are welcome to make
14 whatever kind of motion with the court you want.

15 MR. RAKHUNOV: You can make a motion.
16 I don't have to make any motion. I'm taking my
17 deposition.

18 MR. SPERBER: You keep talking, and I
19 am going to start talking in 12 minutes from now.
20 I warned you at the beginning I need 45 minutes.
21 Rule 40 is very clear that, you know, a deposition
22 is limited to seven hours.

23 MR. RAKHUNOV: Yeah, you haven't
24 noticed this deposition.

25 MR. SPERBER: But other parties are

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1 allowed to ask questions at depositions. This is a
2 party deposition, and I will note that you have
3 repeatedly raised issues related to my client here.
4 So, you know, like I said, you are welcome to take
5 it up with the court.

6 MR. RAKHUNOV: So maybe this an issue
7 that needs to be taken up with Mr. Stern's
8 attorney, and if you need more then to go outside
9 of the seven hours, uh --

10 MR. FRISCH: You're not going outside
11 of the seven hours. Don't even ask it.

12 MR. RAKHUNOV: I am not asking for it.
13 I just need to keep going with my deposition, and
14 we are still, by the way, we're -- I don't even
15 know how many hours we had on Friday because,
16 apparently, we can't get an answer from, you know,
17 from the other court reporters is unavailable so.

18 MR. SPERBER: I advised you --

19 MR. RAKHUNOV: We just wasted 10
20 minutes of Mr. Sperber telling me he's going to
21 start talking over me.

22 MR. FRISCH: Well, if you start talking
23 over each, Mr. Stern will leave, and you guys will
24 have to work it out with the court, and you will
25 let me know, and then we will discuss it from

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1 there.

2 Q Mr. Stern, do you have Exhibit 22 open?

3 I'm sorry did you say yes?

4 A One second.

5 Q Okay.

6 A Okay. Yes, I got it.

7 Q Okay. For the record, this is an
8 E-mail from Mr. Stern dated April 5, 2021, to
9 Davidd@MD3PL.com. MD 3PL is another logistics
10 provider that you used to maintain these gloves and
11 warehouses and help you with logistics shipping
12 when you sold the gloves to Rock Fintek; correct?

13 A Yes.

14 Q Okay. And do you see in the right
15 below you forwarding the FYI E-mail, there is an
16 E-mail from Billing@charmchild.com?

17 A Correct.

18 Q What is that? Who is Charmchild?

19 A Charmchild, they are not a body in this
20 business at all. They're just, uh -- I don't
21 remember who that billing, who the name is.
22 Billing is not a name. This is one of the people
23 working for AMCM and using their other business
24 E-mail as a means of communication between them and
25 I guess Medicare or whoever the logistic company

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1 was, and --

2 Q So it's AMCM?

3 A It's AMCM, yes. In short, it's AMCM.

4 Q And there are one, two, three, four
5 attachments of spreadsheets in this E-mail, and it
6 appears that the attachments are named with
7 container numbers; correct?

8 A Correct.

9 Q And this reflects containers that you
10 received from AMCM at MD 3PL; correct?

11 A Correct.

12 Q All right. If we scroll down to page
13 two, this is a packing list, from Dong Guan
14 Grinvald to AMCM, and it shows synthetic Nitrile
15 protection gloves; correct?

16 A Correct.

17 Q All right. If you scroll to page four,
18 again another, a different container number,
19 showing protection gloves; correct?

20 A Correct.

21 Q If you go to page six, however, it's
22 another lot number that shows Nitrile examination
23 gloves; correct?

24 A Correct.

25 Q And then another container on page

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1 eight, packing list showing more protection gloves;
2 correct?

3 A Correct.

4 Q Okay. Open up Exhibit Stern-23,
5 please.

6 A Okay.

7 Q So this is an E-mail chain that the
8 latest E-mail in time is April 6, 2021, from you to
9 Don Alston, and that's somebody at the New Jersey
10 warehouse Avery Logistics; right?

11 A Correct.

12 Q And you write to him:

13 "See attached multiple packing lists. Let me
14 know if you need more help with this. Thanks."

15 Do you know why you sent Mr. Alston multiple
16 packing lists on April 6, 2021?

17 A To prepare when this going to be coming into
18 the port and to be picked up.

19 Q Okay. And, again, these are, these are
20 packing lists for gloves that you received from
21 either Kitchen Winners or AMCM that you were
22 selling to your customers, including Rock Fintek?

23 A Right.

24 Q And I'm happy to go through each one
25 individually, but is it fair that the packing lists

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1 attached to this E-mail reflect the gloves that you
2 received from your suppliers?

3 A Correct.

4 Q I'm sorry. I didn't hear you?

5 A Correct.

6 Q Okay. Okay. Showing Stern-24, let me
7 know when you have Stern-24 open.

8 A Okay.

9 Q So for the record, this is an E-mail
10 from Vania, V-A-N-I-A, Maciel, M-A-C-I-E-L, from
11 MD 3PL to David Dembitzer and you, re: JNS
12 container, dated April 13, 2021. Do you see that?

13 A Yes.

14 Q Who is David Dembitzer, and I'm sorry
15 if I asked you this on Friday. I don't remember if
16 I did?

17 A He's the owner of MD 3PL.

18 Q Someone that you dealt with in your
19 commercial relationship with them?

20 A Yes.

21 Q Do you know who Vania Maciel is?

22 A A employee at MD 3PL.

23 Q Okay. And she writes:

24 "Good morning" or he or she writes:

25 "Good morning. Below is the attached

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1 receiving."

2 And then following is a description of
3 container numbers; correct?

4 A Correct.

5 Q And if you go to page two, three, four,
6 look at the attachments, where are the photographs
7 attached to this E-mail taken?

8 A I believe in the facility of MD 3PL.

9 Q Not at Medline or any warehouse at Rock
10 Fintek?

11 A Correct.

12 Q And do you see if you go to page two of
13 the document, you see there shrink-wrapped pallets
14 of Medcare boxes?

15 A Yes.

16 Q And on each of the three, there is a
17 white piece of paper that says: "Caution, do not
18 hit," and then there is a number in the middle. Do
19 you see that?

20 A Caution. Yes, caution, do not hit, with a
21 number in the middle. Correct.

22 Q Okay. And so those pieces of paper, do
23 you know who placed them onto the pallets of
24 gloves, who shrink-wrapped them onto the gloves?

25 A I guess MD 3PL.

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1 Q **Okay.**

2 MR. FRISCH: Don't guess.

3 Q **So let me ask you a different question.**

4 **It was certainly not Rock Fintek; correct?**

5 MR. FRISCH: Objection.

6 A Probably not.

7 Q **Okay. To your knowledge, had Rock**
8 **Fintek or any of its logistics providers or anybody**
9 **associated with them had access to these gloves**
10 **while they were at MD 3 PL's warehouses?**

11 A What do you mean access? It's not their
12 property. If they wanted to come see it, they can
13 arrange a visit, and it would be allowed to visit
14 them and inspect them, but.

15 Q **Okay.**

16 A But it is not their property until they pay to
17 pick them up with permission.

18 MR. FRISCH: Can I clarify your
19 question. You are asking him about these specific
20 three sheets of paper that are shown in this
21 photograph, not all white sheets of paper that
22 might be on other pallets that are not presently in
23 front of him. You're asking him about these three
24 sheets of paper; is that correct?

25 MR. RAKHUNOV: That's what I am asking

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1 about.

2 MR. FRISCH: Okay.

3 A Okay. So these three papers, most probably
4 were put on by MD 3PL, as they are the ones who
5 most probably shrink these pallets.

6 Q And if you go to the very last page of
7 this exhibit. That's another packing list;
8 correct?

9 A Yes.

10 Q And the numbers on the packing list are
11 container numbers that are, some of which are the
12 same as the container numbers on the printed white
13 piece of paper above, and you can compare page six
14 to page seven, if you would like, of this exhibit.

15 A Okay. Go ahead.

16 Q So the numbers on the packing list are
17 the same as the numbers on the, on the printed
18 white sheets on the boxes; correct?

19 A Correct.

20 Q All right. By the way, did you --
21 strike that.

22 Do you know if David Dembitzer directly was
23 involved in communicating with any logistics
24 providers for Rock Fintek?

25 A I cannot say for 100 percent that I know

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1 everything, but I can explain you what I know.

2 You figure out on your own, David Dembitzer is
3 the owner and the manager of MD 3PL, and he has
4 multiple locations, at least one large one in New
5 Jersey and another one in LA, and he has a few more
6 I don't remember which states.

7 Now, they're not that big as Medline, and I
8 was seeing in the summer 1.5 million square
9 footage, but they're large enough. I was there
10 once, in the New Jersey warehouse and once in LA, I
11 remember, and they are large enough.

12 So he's like a business owner and has managers
13 and employees in each location, but I don't think
14 he was involved on a private case, you know,
15 managing logistic. He's more on a corporate level
16 making sure his businesses run.

17 **Q Do you know if --**

18 MR. SPERBER: I advised you this
19 morning, I need to have cross-examination. If Avi
20 is not going to give us more time beyond the seven
21 hours --

22 MR. RAKHUNOV: I am not done yet.

23 MR. FRISCH: If you're not done --

24 MR. RAKHUNOV: I know what you told me,
25 but we did not have any agreement --

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1 MR. SPERBER: Let me repeat for the
2 court reporter, what I said was Phil, I told you
3 this morning I need 45 minutes for my
4 cross-examination, you know, you have a number of
5 times asked Mr. Stern questions related to my
6 client and related to the allegations against my
7 client, and so as I told you, I need that time.

8 Avi, has told us he is knots going to
9 permit more than seven hours for this whole
10 deposition. So it is my chance to ask those
11 questions, and I'm sorry, but, you know, we only
12 get the amount of time that we have. So I need to
13 begin my questioning now.

14 MR. RAKHUNOV: So I object. I'm not
15 going to be interrupted. I'm not going to have my
16 questioning stopped, and I don't agree that you get
17 to cut off my questioning. I'm entitled to
18 question this witness for my seven hours.

19 MR. FRISCH: No, you're not.

20 MR. RAKHUNOV: You have not -- if you
21 had noticed this deposition, maybe we would have
22 been able to --

23 MR. FRISCH: Okay. So the notice is to
24 me, not to you. The notice is to my client to
25 inform him that it's his deposition.

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1 MR. RAKHUNOV: I understand.

2 MR. FRISCH: You don't have a standing
3 to raise the issue of notice to my client.

4 MR. RAKHUNOV: Avi, I am not even sure
5 why you're getting involved in this fight, other
6 than I understand you don't want your client to be
7 continued to be questioned by me, but I am not
8 going to be cut off. If you want to try and get in
9 touch with the court right now, I'm happy to do
10 that or we can --

11 MR. FRISCH: I think you need to make
12 an application for additional time.

13 MR. RAKHUNOV: I don't need additional
14 time. I am perfectly happy completing this
15 deposition within my seven hours.

16 MR. FRISCH: You don't have seven
17 hours. That is the thing. The witness is
18 available for seven hours. That is what the rule
19 says. It doesn't say you get the whole seven
20 hours.

21 MR. SPERBER: And the rule is clear.

22 MR. FRISCH: All parties for seven
23 hours.

24 MR. SPERBER: The rule is clear that
25 cross-examination is permitted. You know, we were

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1 all on the E-mails together, you know, scheduling
2 this deposition. You're all involved in scheduling
3 this deposition. There is a reason, as counsel of
4 one of the parties or several of the parties that
5 I'm here, and you don't get to block me from
6 cross-examining a witness in this case with, who
7 has given testimony that concerned the allegations
8 against my client. That is not something you can
9 do, and, I'm sorry, I am going to start talking,
10 and if you want to make an application to the
11 court --

12 MR. RAKHUNOV: I am not, I am not
13 agreeing to this, and I am not agreeing to this,
14 and you've wasted enough of my time with this
15 argument, by the way.

16 Q So Mr. Stern, please turn to exhibit --

17 MR. SPERBER: Mr. Stern, my name is
18 Alex Sperber.

19 Q -- please turn to exhibit --

20 MR. SPERBER: I am one of the
21 attorneys --

22 THE COURT REPORTER: I can't do this.

23 MR. FRISCH: This is, I think, Phil,
24 you need to file, you need to make a motion.

25 MR. RAKHUNOV: I don't need to make any

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1 motion.

2 MR. FRISCH: Well, you do because if
3 you guys can't work this out, then Mr. Stern and I
4 are leaving because I'm not -- we can't have a
5 deposition where you're both talking. Okay.

6 MR. RAKHUNOV: Well, I guess then we
7 are going to be coming back.

8 MR. FRISCH: You refuse to stop
9 talking. You need to make an application to the
10 court. One of you does, and that's it.

11 MR. SPERBER: I am not going to let
12 Phil or his client block me from cross-examining
13 one of the witnesses in this case, who was asked
14 questions about my client.

15 MR. FRISCH: I think we should stop
16 here. You guys should make an application to the
17 court for additional time, and then whatever the
18 court decides, it decides, and that's it.

19 MR. RAKHUNOV: That would resolve
20 everything. That would resolve everything,
21 actually, so.

22 MR. FRISCH: I think that is what we
23 should do. I don't think we need to sit here while
24 you guys fight.

25 MR. RAKHUNOV: In fact, I will put on

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1 the record, Mr. Sperber, I will ascent to any
2 motion for additional time to complete the
3 deposition of Mr. Stern, but I will not ascent to
4 you taking away my time when I still have important
5 exhibits to ask him about to cut me off during my
6 questioning.

7 MR. SPERBER: I will note for the
8 record, that you have taken six hours and
9 15 minutes of a total of seven hours, and I have
10 not objected to that, but I did advise you in the
11 morning that I would need time for
12 cross-examination.

13 MR. RAKHUNOV: And I didn't agree to
14 that --

15 MR. FRISCH: That is not up to you.

16 MR. RAKHUNOV: -- that that would impede
17 on my time.

18 MR. SPERBER: You never objected to it
19 when I told.

20 MR. RAKHUNOV: I have objected to it,
21 first of all, you did not say that you would be
22 taking up my time. My understanding was you had
23 some arrangement with Mr. Frisch, where his client
24 would agree to additional questioning by you.

25 MR. SPERBER: That --

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1 MR. FRISCH: Mr. Stern and I are
2 leaving, and you will do with it what you will, but
3 I think it's over for today; correct?

4 MR. RAKHUNOV: We will see you again
5 soon, Mr. Stern. Susan, I ask could you please get
6 your a rough when you, when you can, as well as,
7 you know, precise calculation of how much time we
8 were on the record, and then I know you're
9 predecessor court reporter had, obviously, some
10 kind of an emergency, but we do need calculation of
11 how much, exactly how much time we were on the
12 record on Friday, and I would ask somebody to get
13 us that information as soon as possible because we
14 need to get some advice from the court on this, as
15 soon as possible.

16 MR. FRISCH: I am going to note right
17 now it's 1:53 p.m., and all of the time counts
18 against you, other than the breaks. That is what
19 the rule says. Your speeches, they count against
20 you, too.

21 MR. SPERBER: Okay. I guess we will
22 leave it there and wait for direction from the
23 court.

24 (Whereupon, the witness is.
25 excused.)

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1 (Whereupon, the deposition is
2 adjourned at 1:55 p.m.)
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C E R T I F I C A T E

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I, SUSAN M. OLIVERI, a Certified Shorthand Reporter and Notary Public of the State of New Jersey, certify that the foregoing is a true and accurate transcript of the deposition of said witness who was first duly sworn by me, on the date and place hereinbefore set forth.

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I FURTHER CERTIFY that I am neither attorney, nor counsel for, nor related to or employed by, any of the parties to the action in which this deposition was taken, and further that I am not a relative or employee of any attorney or counsel employed in this action, nor am I financially interested in this case.



SUSAN M. OLIVERI, C.C.R.
LICENSE NO. XI01914

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1 E R R A T A

2

3 I wish to make the following changes, for
 4 the following reasons:

5

6 PAGE LINE

7 _____ CHANGE: _____

8 REASON: _____

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20 REASON: _____

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22 _____

23 WITNESS' SIGNATURE

DATE

24

25

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